

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION**

Damiane Antron McCoy,

Petitioner,

v.

Warden of Perry Correctional Institution,

Respondent.

Case No. 9:24-cv-4956-RMG

ORDER

Before the Court is the Report and Recommendation (“R & R”) of the Magistrate Judge recommending that Defendant’s petition for habeas corpus be summarily dismissed without prejudice, without leave to amend, and without requiring Respondent to file a return. (Dkt. No. 8). Petitioner was advised that he had fourteen days to file written objections and if he failed to timely file objections, the R & R would be reviewed only clear error and Petitioner would waive his right to file an appeal from the District Court’s order. (*Id.* at 7). Petitioner filed no objections.

Legal Standard

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility for making a final determination remains with this Court. *Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). The Court is charged with making a *de novo* determination only of those portions of the Report to which specific objections are made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of specific objections, the Court reviews the Report for clear error. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but

instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’”) (quoting Fed. R. Civ. P. 72 advisory committee's note).

Discussion

The Magistrate Judge recommended that the petition be summarily dismissed because Petitioner failed to state a cognizable ground for relief and failed to exhaust his state remedies. (Dkt. No. 8 at 3-5). Petitioner filed no objections. The Court finds that the Magistrate Judge ably addressed the factual and legal issues in this matter and correctly concluded that the petition should be dismissed. The Court adopts the R & R of the Magistrate Judge (Dkt. No. 8) as the order of Court. This action is dismissed without prejudice, without leave to amend, and without requiring the Respondent to file a return.

AND IT IS SO ORDERED.

s/ Richard M. Gergel
Richard Mark Gergel
United States District Judge

March 5, 2025
Charleston, South Carolina