

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION**

Bobby E. Burton, Jr.)	
)	Civil Action No. 4:16-cv-00178-JMC
Petitioner,)	
)	
v.)	ORDER
)	
Warden Rupert,)	
)	
Respondent.)	
_____)	

This matter is before the court upon review of United States Magistrate Judge Thomas E. Rogers, III. Report and Recommendation (“Report”), filed on February 19, 2016, recommending that the case be transferred because a federal court in South Carolina cannot obtain *in personam* jurisdiction over Petitioner’s custodian (ECF No. 5.) The Report sets forth the relevant facts and legal standards which this court incorporates herein without a recitation.

The Magistrate Judge’s Report is made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02(B)(2) for the District of South Carolina. The Magistrate Judge makes only a recommendation to this court, which has no presumptive weight. *See Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). The responsibility to make a final determination remains with this court. *Id.* The court is charged with making a *de novo* determination of those portions of the Report to which specific objections are made. *Id.*

The parties were advised of their right to file objections to the Report.¹ (ECF No. 5.) However, neither party filed any objections to the Report.

¹ The court observes that Petitioner filed a document purporting to be an Application for a Writ of Habeas Corpus for the Court of Criminal Appeals of Texas (ECF No. 9), which document is not construed to be an objection. Additionally, Petitioner filed an In Forma Pauperis Motion (ECF No. 2) and a Motion to Appoint Counsel (ECF No. 11), which the court observes are

In the absence of objections to the Magistrate Judge’s Report, this court is not required to provide an explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983) (explaining that a judge may “accept, reject, or modify in whole or in part [a] [M]agistrate [Judge’s] report,” without explanation, when no objections are filed by the challenging party). Rather, “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.’” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (*quoting* Fed. R. Civ. P. 72 advisory committee’s note).

After a thorough review of the Report, the court finds the Report provides an accurate summary of the facts and law and does not contain any clear error. This court concurrently adopts the Magistrates conclusion that absent jurisdiction over this case, this court cannot and does not make a recommendation on the merits of the Petition itself. The court **ADOPTS** the Magistrate Judge’s Report and Recommendation (ECF No. 5), and this case is **TRANSFERRED** to the United States District Court for the Eastern District of Texas.

IT IS SO ORDERED.



United States District Judge

October 11, 2016
Columbia, South Carolina

Motions more appropriately considered by United States District Court for the Eastern District of Texas.