Mabe v. Vermont Department of Corrections, Commissioner of the et al Doc. 10

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF VERMONT

MATTHEW J. MABE,	:	
Petitioner,	:	
v.	:	**File No. 1:14-cv-12-jgm**
COMMISSIONER OF THE VERMONT DEPARTMENT OF CORRECTIONS and STATE OF VERMONT,	:	
Respondents.	:	

ORDER

The Magistrate Judge's Report and Recommendation was filed April 22, 2014. (Doc. 9.) After de novo review and absent objection, the Report and Recommendation is AFFIRMED, APPROVED and ADOPTED. See 28 U.S.C. § 636(b)(1).

Respondents' Motion to Dismiss (Doc. 7) is DENIED. This action is STAYED conditioned on Mabe's pursuing state court remedies within thirty (30) days, and his return to this Court within thirty (30) days after exhausting those remedies. The Court, on its own motion, DISMISSES with prejudice Mabe's claim insofar as it alleges defects in the post-conviction relief proceedings.

It is further certified that any appeal taken in forma pauperis from this Order would not be taken in good faith because such an appeal would be frivolous. See 28 U.S.C. § 1915(a)(3).

SO ORDERED.

Dated at Brattleboro, in the District of Vermont, this 22nd day of May, 2014.

/s/ J. Garvan Murtha
Honorable J. Garvan Murtha
United States District Judge

Dockets.Justia.com