

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT

U.S. DISTRICT COURT
DISTRICT OF VERMONT
FILED

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Thomas J. Hackett,)
)
Plaintiff,)
)
v.) Case No. 5:12-cv-158
)
Xu Zhou; The State of Vermont;)
Chittenden Criminal Division;)
William H. Sorrell, Vermont Attorney)
General,)
)
Defendants.)

**OPINION AND ORDER ADOPTING MAGISTRATE JUDGE'S
REPORT AND RECOMMENDATION**

(Docs. 4, 5, 9 and 11)

This matter came before the court for a review of the Magistrate Judge's November 19, 2012 Report and Recommendation ("R & R") in regards to the Plaintiff's Petition and Amended Petition for Writ of Habeas Corpus. Defendants have moved to dismiss the Petition. Plaintiff has filed a reply to the R & R in a timely manner which the court will treat as an objection. Plaintiff's fifteen-page objection recites the details of his various family court and criminal case proceedings as well of events occurring in Plaintiff's marriage and during his child-rearing of his daughters. The objection includes exhibits containing apparent web pages setting forth legal quotations (primarily addressing a court's jurisdiction) and a legal brief apparently filed by a self-represented defendant in an Illinois state court criminal proceeding challenging the state court's jurisdiction on a number of grounds. Plaintiff requests the court to: "Please acquit, vacate, expunge, strike, my and all Vermont criminal, family, and probate actions of the last four years, such that my second amendment right of self defense be restored by

2013.” (Doc. 12 at 15.) Plaintiff does not point to any error made by the Magistrate Judge in recommending dismissal of his Petition, nor does he address any aspect of the R & R with which he objects.

A district judge must make a *de novo* determination of those portions of a magistrate judge’s report and recommendation to which an objection is made. FED. R. CIV. P. 72(b); 28 U.S.C. § 636(b)(1); *Cullen v. United States*, 194 F.3d 401, 405 (2d Cir. 1999). The district judge may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1); *accord Cullen*, 194 F.3d at 405. A district judge, however, is not required to review the factual or legal conclusions of the magistrate judge as to those portions of a report and recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation. *See Campbell v. United States Dist. Court*, 501 F.2d 196, 206 (9th Cir. 1974), *cert. denied*, 419 U.S. 879 (1974).


In his five page R & R, the Magistrate Judge carefully reviewed the factual record and the legal issues before the court. The Magistrate Judge determined that the Defendants’ Motion to Dismiss should be granted on *Younger v. Harris*, 401 U.S. 37, 46 (1971) abstention grounds. He further recommended that Plaintiff’s Petition be dismissed on the grounds that to grant relief would interfere with an ongoing state criminal prosecution and because Plaintiff had not satisfied 28 U.S.C. § 2254’s exhaustion requirements.

The court agrees with the Magistrate Judge’s conclusions and Plaintiff has provided no reason for refusing to adopt them as the Opinion and Order of this court.

For the foregoing reasons, the court hereby ADOPTS the Magistrate Judge’s R & R as the court’s Order and Opinion, GRANTS Defendants’ Motion to Dismiss, and DISMISSES the Plaintiff’s Petition.

SO ORDERED.

Dated at Rutland, in the District of Vermont, this 20th day of December, 2012.



Christina Reiss, Chief Judge
United States District Court