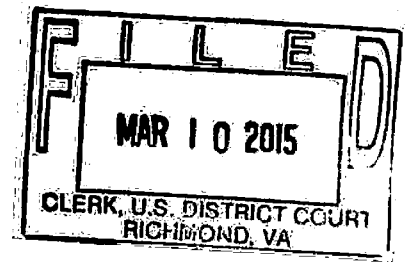


IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division



CHARLES A. BIRDSONG,

Petitioner,

v.

Civil Action No. 3:14CV131

HENRY PONTON,

Respondent.

MEMORANDUM OPINION

Charles A. Birdsong, a Virginia inmate proceeding *pro se*, filed this petition for a writ of habeas corpus under 28 U.S.C. § 2254 (“§ 2254 Petition,” ECF No. 1) challenging his convictions of a variety of institutional infractions at the Nottoway Correctional Center. On January 9, 2015, the Magistrate Judge issued a Report and Recommendation that recommended denying the § 2254 Petition and dismissing the action because Birdsong had failed to state a viable claim for habeas relief. The Court advised Birdsong that he could file objections within fourteen (14) days after the entry of the Report and Recommendation. Birdsong moved for an extension of time to file objections. By Memorandum Order entered on February 10, 2015, the Court granted Birdsong an extension of eleven (11) days from the date of entry thereof to file objections. More than eleven (11) days have elapsed since the entry of the February 10, 2015 Memorandum Order and Birdsong has not filed objections.

“The magistrate makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with this court.” *Estrada v. Witkowski*, 816 F. Supp. 408, 410 (D.S.C. 1993) (citing *Mathews v. Weber*, 423 U.S. 261, 270–71 (1976)). This Court “shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” 28

U.S.C. § 636(b)(1). “The filing of objections to a magistrate’s report enables the district judge to focus attention on those issues—factual and legal—that are at the heart of the parties’ dispute.” *Thomas v. Arn*, 474 U.S. 140, 147 (1985). In the absence of a specific written objection, this Court may adopt a magistrate judge’s recommendation without conducting a de novo review. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 316 (4th Cir. 2005).

There being no objections, the Report and Recommendation will be ACCEPTED and ADOPTED. The § 2254 Petition will be DENIED and the action will be DISMISSED. Respondent’s Motion to Dismiss (ECF No. 12) for lack of exhaustion will be DENIED AS MOOT. The action will be DISMISSED.

An appropriate Final Order will accompany this Memorandum Opinion.

Date: 3-10-15
Richmond, Virginia

<p>_____ /s/ James R. Spencer Senior U. S. District Judge</p>
