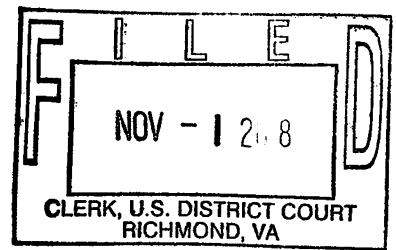


IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division



KEVIN MICHAEL DRAYTON, JR.,

Petitioner,

v.

Civil Action No. 3:18CV303

HAROLD CLARKE,

Respondent.

MEMORANDUM OPINION


Kevin Michael Drayton, Jr., a federal inmate proceeding *pro se*, filed this petition under 28 U.S.C. § 2254 challenging his convictions in the Circuit Court of Hanover County of: first degree murder; aggravated malicious wounding; use of a firearm to commit murder; conspiracy to commit robbery; and, used of a firearm to commit aggravated malicious wounding. On October 3, 2018, the Magistrate Judge issued a Report and Recommendation wherein he recommended denying the § 2254 Petition. (ECF No. 21.) The Court advised Drayton that he could file objections within fourteen (14) days after the entry of the Report and Recommendation. Drayton has not responded.

“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) (footnote omitted). 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, and the Court having determined that the Report and Recommendation is correct on its merits, the Report and Recommendation (ECF No. 21) will be ACCEPTED and ADOPTED. The Motion to Dismiss (ECF No. 11) will be GRANTED. Drayton's § 2254 Petition (ECF No. 1) will be DENIED. Drayton's claims and the action will be DISMISSED. A certificate of appealability will be DENIED.

An appropriate Order will accompany this Memorandum Opinion.



M. Hannah Lauck
United States District Judge

Date: NOV 01 2018
Richmond, Virginia