

UNPUBLISHED

**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

No. 20-6070

ROBERT SINGLETARY,

Petitioner - Appellant,

v.

MICHAEL STEPHON, Warden; BROAD RIVER CORRECTION INST,

Respondents - Appellees.

Appeal from the United States District Court for the District of South Carolina, at Beaufort.
Mary G. Lewis, District Judge. (9:19-cv-00227-MGL)

Submitted: June 16, 2020

Decided: June 19, 2020

Before MOTZ and KING, Circuit Judges, and SHEDD, Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

Robert Singletary, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Robert Singletary seeks to appeal the district court's order denying relief on his 28 U.S.C. § 2254 (2018) petition. The district court referred this case to a magistrate judge pursuant to 28 U.S.C. § 636(b)(1)(B) (2018). The magistrate judge recommended that relief be denied and advised Singletary that failure to file timely, specific objections to this recommendation could waive appellate review of a district court order based upon the recommendation.

The timely filing of specific objections to a magistrate judge's recommendation is necessary to preserve appellate review of the substance of that recommendation when the parties have been warned of the consequences of noncompliance. *Martin v. Duffy*, 858 F.3d 239, 245 (4th Cir. 2017); *Wright v. Collins*, 766 F.2d 841, 846-47 (4th Cir. 1985); *see also Thomas v. Arn*, 474 U.S. 140, 154-55 (1985). Although Singletary received proper notice and filed timely objections to the magistrate judge's recommendation, he has waived appellate review because the timely objections were not specific to the particularized legal recommendations made by the magistrate judge. *See Martin*, 858 F.3d at 245 (holding that, "to preserve for appeal an issue in a magistrate judge's report, a party must object to the finding or recommendation on that issue with sufficient specificity so as reasonably to alert the district court of the true ground for the objection" (internal quotation marks omitted)).

Accordingly, we deny a certificate of appealability and dismiss the appeal. We dispense with oral argument because the facts and legal contentions are adequately

presented in the materials before this court and argument would not aid the decisional process.

DISMISSED



IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
BEAUFORT DIVISION

ROBERT SINGLETARY,
Petitioner,

vs.

WARDEN MICHAEL STEPHON and BROAD
RIVER CORRECTIONAL,
Respondents.

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Civil Action No. 9:19-00227-MGL-BM

**ORDER ADOPTING THE REPORT AND RECOMMENDATION,
GRANTING RESPONDENTS MOTION FOR SUMMARY JUDGMENT,
AND DISMISSING PLAINTIFF'S PETITION WITH PREJUDICE**

Petitioner Robert Singletary (Singletary), proceeding pro se, filed this action asserting a habeas corpus claim under 28 U.S.C. § 2254. The matter is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge suggesting Respondents Warden Michael Stephon and Broad River Correctional's (collectively, Respondents) motion for summary judgment be granted and Singletary's petition be dismissed with prejudice. The Report was made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to the Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a *de novo* determination of those portions of the Report to which a specific objection is made, and the Court

may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1). The Court need not conduct a de novo review, however, “when a party makes general and conclusory objections that do not direct the court to a specific error in the [Magistrate Judge’s] proposed findings and recommendations.” *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982); *see* Fed. R. Civ. P. 72(b).

The Magistrate Judge filed the Report on October 2, 2019. Singletary filed his Objection to the Report (Objection) on May 8, 2019. Respondents filed their response to Singletary’s Objection on October 21, 2019. The Court has reviewed Singletary’s objection but holds it to be without merit. It will therefore enter judgment accordingly.

Singletary’s sole objection restates his position he was denied effective assistance of counsel at trial. It fails to address the determinative statute of limitations analysis performed by the Magistrate Judge. Accordingly, the Court will treat Singletary’s objection as a “conclusory objection[.]” and thus obviating the need for de novo review. *Id.* The Court finds no error with the statute of limitations analysis performed by the Magistrate Judge.

After a thorough review of the Report and the record in this case pursuant to the standard set forth above, the Court overrules Singletary’s objection, adopts the Report, and incorporates it herein. Therefore, it is the judgment of the Court Respondents’ motion for summary judgment is **GRANTED** and Singletary’s petition is **DISMISSED WITH PREJUDICE**.

IT IS SO ORDERED.

Signed this 31st day of October 2019 in Columbia, South Carolina.

s/ Mary Geiger Lewis
MARY GEIGER LEWIS
UNITED STATES DISTRICT JUDGE

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this Order within thirty days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.



IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
BEAUFORT DIVISION

ROBERT SINGLETARY,
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MARY GEIGER LEWIS
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On October 31, 2012, the South Carolina Court of Appeals denied the appeal in its entire Singletary, 2012-UP-589 (S.C.Ct.App. filed October 31, 2012)(unpublished). (R.pp. 332 remittitur was issued on November 16, 2012. See Court Docket No. 15-4.

On April 30, 2013, Petitioner filed an application for post-conviction relief in state circuit court. Singletary v. State of South Carolina, No. 2013-CP-21-1159. (R.pp. Petitioner raised the following grounds in his APCR:

6th Amend-Coleman vs. Thompson 51 US 722 . . . Strickland v. State - Martinez Ryan - Strickland v. Washington

- a. The right to a fair trial - ambiguous sentence
- b. The right to present evidence [sic] on my behalf - ineffective counsel
- c. The right for me to have witnesses on my behalf
- d. Sentence [sic] of 0-15 the judge gave me 15 yrs. Sentence[sic] of 0-30 the judge gave me 30 yrs. Sentencing [sic] was extreme.

(R.p. 249).

Petitioner was represented in his APCR by Jonathan Waller, Esquire, and an evidentiary hearing was held on Petitioner's application on October 9, 2014. (R.pp. 275-317). After the hearing, briefs were filed post-hearing memoranda. (R.pp. 254-261, 268-274). By order dated March 25, 2015, on April 1, 2015, the PCR judge denied Petitioner's requested relief in its entirety. (R.pp. 3

Petitioner appealed the denial of his APCR. Petitioner's PCR appellate attorney, LaNelle Durant of the South Carolina Commission on Indigent Defense, raised the following issues in this appeal:

Did the PCR court err in not finding trial counsel ineffective for not objecting to Debbie Elliott being qualified as an expert in child abuse assessment when there was no sufficient showing of her individual reliability as there was no evidence that her conclusions from the interview were accurate, and her qualification as an expert allowed her to give her improper opinion recommendations that Singletary should have no contact with this child or any child, and that Petitioner should have

181
5 of 6

sexual conduct with a minor (2009-GS-21-1350). William V. Meetze, Esquire ("trial counsel" represented Applicant. On June 21, 2010, Applicant proceeded to trial before the Honorable I Craig Brown and a jury. On June 23, 2010, the jury found Applicant guilty as indicted. Judge Brown sentenced Applicant to concurrent terms of thirty (30) years for criminal sexual conduct with a minor and fifteen (15) years for lewd act on a minor.

Applicant filed a timely notice of appeal, and Breen R. Stevens, Esquire, of the Office of Appellate Defense represented Applicant on appeal. The South Carolina Court of Appeals affirmed Applicant's conviction on October 31, 2012. State v. Singletary, Op. No. 2012-UP-58 (S.C. Ct. App. filed October 31, 2012). The Court of Appeals returned the remittitur to the circuit court on November 16, 2012.

II. ALLEGATIONS

In his application, Applicant alleged he is being held in custody unlawfully for the following reasons:

1. "6th amend[ment]"
 - a. "Strickland v State - Martinez vs Ryan - Strickland vs Washington"
2. "The right to A Fair Trial"
 - a. "My Attorney wouldn't let me testify. Did not object to sentence"
3. "The right to present Evidence on my behalf"
 - a. "I gave my Attorney cancel checks, telephone bill, light bill & rent receipt"
4. "The right for me to have witnesses on my behalf"
 - a. "My Attorney wouldn't call my witnesses to testify that I was elsewhere"
5. "Sentencing was extreme"

At the evidentiary hearing, Applicant proceeded on only the following allegations:

1. Ineffective assistance of trial counsel for failing to impeach the victim with her prior statement.

2. Ineffective assistance of trial counsel for failing to object to Debbie Elliott's qualifications as an expert.
3. Ineffective Assistance of counsel for failing to object to improper questioning of Debbie Elliott.

Applicant submitted a "Memorandum in Support of Applicant's Application for Post-Conviction Relief" on or about November 10, 2014. Respondent submitted a "Memorandum in Opposition to Post-Conviction Relief" on or about November 25, 2014.

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Court has reviewed the record in its entirety and has heard the testimony and arguments presented at the evidentiary hearing. The Court has further had the opportunity to observe each witness who testified at the hearing, and to closely pass upon their credibility. The Court has weighed the testimony accordingly. Generally, the Court finds trial counsel's testimony credible and Applicant's not credible. Set forth below are the relevant findings of fact and conclusions of law as required by S.C. Code Ann. § 17-27-80 (2003).

A. Summary of Testimony

Applicant testified trial counsel was his second attorney. He testified he gave trial counsel several documents to demonstrate he did not possess the properties where the victim claimed she was raped on the dates she alleged he raped her. He also testified trial counsel never explained the indictment or potential sentences. He did admit he somewhat reviewed the State's discovery response. Applicant testified trial counsel advised him not to testify at trial because he had a prior record.

Trial counsel testified he was assigned the case as part of his duties as a public defender. He recalled having a number of meetings with Applicant and reviewing discovery, the charges, and the possible punishments. He recalled reviewing the documents Applicant provided

VICK MEETZE - DIRECT BY MR. THOMAS

1 with me. Not to say we agreed on every point because I don't
2 think anybody agrees with everybody all the time, but I think
3 our working relationship was -- was collegial and cordial at
4 all times the way I recall it.

5 But I think I did tell him that the documents that he
6 you know, to me an alibi defense is a defense that you were
7 here and, because you were here at this time, you couldn't
8 have been over here doing certain acts, and there wasn't
9 anything that I saw in what he gave me that -- that provided
10 any kind of a -- of a clear alibi of -- to where his
11 whereabouts would be.

12 As he said, there was just general times and all as far
13 -- as far as when these allegations occurred that were
14 testified to that weren't exact. It was I think three to four
15 instances that were testified in regards to that were alleged
16 to have happened over a three-year period, but no set, you
17 know, date and time and all of that.

18 Q: And do you recall the -- sort of what the range of the
19 dates was in the indictment?

20 A: Off the top of my head, I don't recall. I recall the
21 testimony.

22 Q: I'll let you look at that. Does that refresh your
23 recollection as to when the indictments -- the range of dates
24 was?

25 A: It does.

1 attorney represented him on all of his bond hearings or not,

2 to be honest with you, but -- but he was -- he -- he had a

3 bond set that he was able to get out on, and he was out and he
4 was cooperative and he came when -- when I asked him and all
5 of that, and he came to my office and we talked, you know, in
6 my opinion many times.

7 Q: And during those talks, did you have a chance to go over
8 the discovery responses with him?

9 A: Yes.

10 Q: And did you have a chance to discuss sort of the elements
11 of the charges that he was facing?

12 A: Yes.

13 Q: What kind of defenses did you -- did you formulate based
14 on your conversations with him?

15 A: He had given me the paperwork that he testified to
16 earlier with regards to what he saw as an alibi defense, and
17 in his mind the documentation that he gave me with regards to
18 various bills and invoices and things like that, you know, in
19 his mind was proof of his innocence sort of.. I don't want to
20 put words in his mouth, but I think that's pretty close to
21 what he said and -- you know, as an alibi, and I just didn't
22 see it that way.

23 And I -- you know, I felt like Mr. Singletary and I
24 always got along very well. You know, I don't recall ever
25 being testy with him and I don't recall him ever being testy

CURTIS
What is the relationship between
Vick Meetze And Anna Braddock Meetze

1 reasonable doubt each element to each of these charges.

2 There are certain questions, ladies and gentlemen, before

3 we select the jury, certain questions which I will ask of

4 you before we pick a jury. Beforehand though, I would

5 like the State to stand and introduce itself, along with

6 the lawyers and any other parties involved in this case.

7 MR CLEMENTS: If it please the Court, Your Honor.

8 THE COURT: Yes, sir.

9 MR CLEMENTS: I'm Solicitor Ed Clements. My office

10 will be prosecuting this case. I'm the Solicitor for the

11 Twelfth Judicial Circuit which is Florence and Marion

12 counties. Anna Braddock Meetze is our victim witness

13 advocate. She's been here during the qualification of the

14 jury. And I'm going to pass this on now to Senior

15 Assistant Solicitor Mr. Bob Wells and Assistant Solicitor

16 Katherine Anderson. They will be trying this case today.

17 MR. WELLS: My name is Bob Wells and this is

18 Katherine Anderson. She's gonna be the primary attorney

19 in this case and I'm going to be assisting her.

20 THE COURT: Is anyone related by blood, connected by

21 marriage, or have a close, personal relationship or

22 friendship with Ms. Anderson, Ms. Katherine Anderson, who

23 is one of the prosecutors in this case with Mr. Wells who

24 is the other prosecutor in this case, if so, please stand.

25 (There was no response.)

THE COURT: Mr. Meetze, you want to stand and...

MR. MEETZE: Ladies and gentlemen, my name is Vick Meetze and I work as Assistant Public Defender in the Florence County Public Defender's Office. We're part of the Twelfth Circuit in this state. The head circuit defender in our office is Jack Lawson. We also have attorneys Karen Parrott, Grayson Smith, Scott Suggs, Carrington Wingard, and Scott Floyd all in our office as well. And I will be representing the defendant Robert Singletary in this case.

THE COURT: All right. Any member of the jury panel have a close, personal relationship related by blood or connected by marriage to Mr. Meetze or Mr. Singletary or any other party in the Public Defender's Office, if so, please stand.

(There was no response.)

THE COURT: Ladies and gentlemen, the following is a list of possible witnesses in this case. On behalf of the State Lieutenant Roger Tilton with the Lake City Police Department; Officer Jason Plowden, Florence County Sheriff's Office; Doctor Kathy Saunders, Carehouse; Ms. Debbie Elliott, The Carehouse; Ms. Linda Williams, Florence County Department of Juvenile Justice; Ms. Melinda Lynn from the Florence County Department of Social Services; Agent Craig Townsend, Bureau of Alcohol


ROBERT SINGLETARY

Petitioner - Appellant

v.

MICHAEL STEPHON, Warden; BROAD RIVER CORRECTION INST

Respondents - Appellees

01/13/2020	<u>1</u>	Habeas corpus appeal docketed. Originating case number: 9:19-cv-00227-MGL. Date notice of appeal filed: 01/10/2020. Case manager: CBennett. Did district court rule on COA? No. [20-6070] CB [Entered: 01/13/2020 10:15 AM]
01/13/2020	<u>2</u>	INFORMAL PRELIMINARY BRIEFING ORDER filed. Mailed to: Robert Singletary. Ir Opening Brief due 02/06/2020. [20-6070] CB [Entered: 01/13/2020 10:20 AM]
01/13/2020	<u>3</u>	FEE NOTICE issued to Robert Singletary - initial notice. Fee or application to proceed as due 02/12/2020. Originating case number: 9:19-cv-00227-MGL. Mailed to: Robert Singletary. [20-6070] CB [Entered: 01/13/2020 10:23 AM]
01/13/2020	<u>4</u>	RECORD requested from Clerk of Court. Due: 01/27/2020. [20-6070] CB [Entered: 01/13/2020 10:25 AM]
01/31/2020	<u>5</u>	RECORD FOLLOW UP NOTICE ISSUED to Clerk of Court. 02/14/2020. [20-6070] CB [Entered: 01/31/2020 09:41 AM]
02/03/2020	<u>6</u>	INFORMAL OPENING BRIEF by Robert Singletary. [20-6070] CB [Entered: 02/04/2020 02:00 PM]
02/10/2020	<u>7</u> 	NOTICE ISSUED re: misrouted fee received/transmitted to SC in paper form. Amount: \$0.00. [20-6070] BAW [Entered: 02/10/2020 03:40 PM]
02/19/2020	<u>8</u>	RECORD FOLLOW UP NOTICE ISSUED to Clerk of Court. 03/04/2020. [20-6070] CB [Entered: 02/19/2020 04:24 PM]
02/21/2020	<u>9</u>	ASSEMBLED ELECTRONIC RECORD docketed. Originating case number: 9:19-cv-00227-MGL. Record in folder? Yes. Record reviewed? Yes. PSR included? N/A. State court paper record requested in 2254 case? No. [20-6070] CB [Entered: 02/21/2020 12:24 PM]
02/27/2020	<u>10</u>	CHANGE OF ADDRESS Notice by Robert Singletary. [20-6070] CB [Entered: 02/27/2020 02:00 PM]
06/19/2020	<u>11</u>	UNPUBLISHED PER CURIAM OPINION filed. Originating case number: 9:19-cv-00227-MGL. Copies to all parties and the district court/agency. [1000760214]. Mailed to: Robert Singletary. [20-6070] CB [Entered: 06/19/2020 07:36 AM]
06/19/2020	<u>12</u>	JUDGMENT ORDER filed. Decision: Dismissed. Originating case number: 9:19-cv-00227-MGL. Entered on Docket Date: 06/19/2020. [1000760216] Copies to all parties and the district court/agency. Mailed to: Robert Singletary. [20-6070] CB [Entered: 06/19/2020 07:39 AM]
07/13/2020	<u>13</u>	Mandate issued. Referencing: [11] unpublished per curiam Opinion, [12] Judgment Order. Originating case number: 9:19-cv-00227-MGL. Mailed to: Robert Singletary. [20-6070] CB [Entered: 07/13/2020 09:52 AM]
07/21/2020		DOCUMENT(S) titled "Violation of constitutional right, civil right and liberal rights" and

14 [1000780514] [20-6070] CB [Entered: 07/23/2020 04:08 PM]

07/23/2020 15 NOTICE ISSUED re: further consideration unavailable - Local Rule 40(d). Document: [1 document. Mailed to: Robert Singletary. [20-6070] CB [Entered: 07/23/2020 04:13 PM]