

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
EASTERN DIVISION

Case No. 4:24-CV-00161-M-RJ

STATE OF NORTH CAROLINA,)
ON SLOW COUNTY COURT, et al.,)
)
Plaintiffs,)
)
v.)
)
WILLIAM HERCULES DAVIS, JR.,)
)
)
Defendant.)
_____)

ORDER

This matter comes before the court on the memorandum and recommendation (“M&R”) issued by United States Magistrate Judge Robert B. Jones, Jr. pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b). DE 7. After conducting a frivolity review in accordance with 28 U.S.C. § 1915, Judge Jones recommends that this court remand the case to state court based on the Defendant’s failure to demonstrate this court’s subject-matter jurisdiction. *Id.* at 3. Judge Jones instructed the Defendant to file any written objections to his recommendation on or before December 30, 2024. *Id.* On December 20, 2024, Defendant filed an “objection,” together with copies of written citations and a bond forfeiture notice from various counties. DE 8. The matter is now ripe for consideration by this court.

A magistrate judge’s recommendation carries no presumptive weight. The court “may accept, reject, or modify, in whole or in part, the . . . recommendation[] . . . receive further evidence or recommit the matter to the magistrate judge with instructions.” 28 U.S.C. § 636(b)(1); *accord Mathews v. Weber*, 423 U.S. 261, 271 (1976). The court “shall make a de novo determination of

those portions of the report or specified proposed findings or recommendations to which objection is made.” *Id.* § 636(b)(1). Absent a specific and timely objection, the court reviews only for “clear error” and need not give any explanation for adopting the recommendation. *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005).

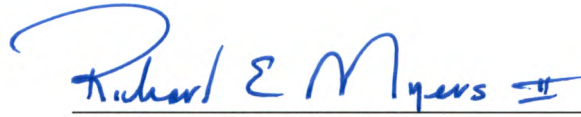
Defendant makes no objection to any specified finding or recommendation by Judge Jones. Rather, Defendant “clarifies” that the basis for removal is the alleged violation of his constitutional rights that appear to have occurred during criminal proceedings brought against him, and he attaches copies of documents he believes support proper removal. The court has reviewed the M&R and finds no error nor any finding or conclusion that is contrary to law. As the removed case involves no claims or defenses by the Defendant implicating this court’s subject-matter jurisdiction, Defendant fails to demonstrate that any objection to the M&R should be sustained.

Therefore, upon de novo review of the M&R and the record presented, and finding no error, the court ADOPTS the recommendation of the magistrate judge as its own. For the reasons stated therein, Defendant’s objection to the M&R is OVERRULED and, to the extent any state court matter listed by Defendant has been actually removed, it is REMANDED to the state court(s) from whence it originated.

Typically, the court would close this case. However, Defendant has also recently filed a document [DE 9] liberally construed as a Complaint alleging violations of Defendant’s constitutional rights. The document appears to be related to the matters raised by Defendant in his attempted removal; thus, the court will accept the filing in this case and direct the Clerk of the Court to modify the case caption, cause, and nature on the case docket. The matter is referred to Judge Jones pursuant to 28 U.S.C. § 1915 for a frivolity review, in accordance with all applicable

federal and local rules.

SO ORDERED this 3^d day of January, 2025.



RICHARD E. MYERS II
CHIEF UNITED STATES DISTRICT JUDGE