

IN THE UNITED STATES DISTRICT COURT  
 FOR THE DISTRICT OF SOUTH CAROLINA  
 ROCK HILL DIVISION

James E. Jones,  
 Plaintiff,

C.A. No.: 0:09-cv-02802-RBH

vs.

**ORDER**

United States Department of Justice,  
 William G. Stewart, II, *Executive Office*  
*for the United States Attorneys Freedom of*  
*Information and Privacy Staff, US*  
 Attorney’s Office for the District of South  
 Carolina, *Florence Division,*  
 Defendants.

This matter arises under the Freedom of Information Act. This matter is before the court for review of the Report and Recommendation of United States Magistrate Judge Paige J. Gossett, made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this court. See Mathews v. Weber, 423 U.S. 261, 270-71 (1976). The court is charged with making a de novo determination of those portions of the Report and Recommendation to which 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. See 28 U.S.C. § 636(b)(1).

Neither party has filed objections to the Report and Recommendation. In the absence of objections to the Report and Recommendation of the Magistrate Judge, this court is not required to give any explanation for adopting the recommendation. See Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983). The Court reviews only for clear error in the absence of an objection. See Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310 (4<sup>th</sup> Cir. 2005) stating that “in the absence of a timely filed objection, a district court need not conduct *de novo* review, but instead must 'only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” (quoting Fed. R. Civ. P. 72 advisory committee's note).

After a thorough review of the record in this case, the Court finds no clear error. Accordingly, the Report and Recommendation of the Magistrate Judge is adopted and incorporated by reference. Therefore, it is

**ORDERED** that Defendants William G. Stewart, II, and the United States Attorney’s Office, Florence Division, are entitled to summary judgment because they are not proper defendants in a FOIA action. However, Defendant DOJ’s motion for summary judgment is denied and, pursuant to 5 U.S.C. § 552(a)(4)(B), Defendant DOJ is hereby enjoined from withholding the audiotape submitted for *in camera* review and is further ordered to produce the audiotape to Plaintiff.

**IT IS SO ORDERED.**

s/R. Bryan Harwell  
R. Bryan Harwell  
United States District Judge

Florence, South Carolina  
February 22, 2011