



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

DONALD R. SURDAK, JR.,
Plaintiff,

vs.

DIRECTOR JON OZMINT, RICHARD
BAZZLE, LT. SUSAN DUFFY, SGT.
COTTER, OFC. JOHN DOE, JANE DOE,
and OFC. NFN BARNES,
Defendants.

§
§
§
§
§
§
§
§
§
§

CIVIL ACTION NO. 0:09-03287-HFF-PJG

ORDER

This case was filed as a 42 U.S.C. § 1983 action. Plaintiff is proceeding pro se. The matter is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge suggesting that Defendants’ motion to dismiss be denied and Plaintiff’s motion to amend be terminated as moot. 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 this 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 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 Magistrate Judge filed the Report on September 16, 2010, and Defendants filed their objections to the Report on September 30, 2010. The Clerk of Court entered Plaintiff's response to Defendants' objections on October 13, 2010. The Court has reviewed Defendants' objections and finds them to be without merit. It is of the opinion, however, that Plaintiff should be allowed to amend his Complaint. Therefore, the Court will enter judgment accordingly.

After a thorough review of the Report and the record in this case pursuant to the standard set forth above, the Court overrules Defendants' objections, adopts the Report to the extent that it is consistent with this Order, and incorporates it herein. Therefore, it is the judgment of this Court that Defendants' motion to dismiss be **DENIED** and that Plaintiff's motion to amend be **GRANTED**.

IT IS SO ORDERED.

Signed this 3rd day of November, 2010, in Spartanburg, South Carolina.

s/ Henry F. Floyd _____
HENRY F. FLOYD
UNITED STATES DISTRICT JUDGE

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this Order within 30 days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.