

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

Almonzo Lowery,)	C/A No. 0:12-11-JFA-PJG
)	
Plaintiff,)	
)	
v.)	ORDER
)	
South Carolina Department of Corrections,)	
)	
Defendant.)	
_____)	

The *pro se* plaintiff, Almonzo Lowrey, brings this action pursuant to 42 U.S.C. § 1983, contending that he received injuries from a defective light switch in the shower dormitory where he is an inmate with the South Carolina Department of Corrections (SCDC). He is suing the SCDC for emotional stress, endangerment, and neglect.

The Magistrate Judge assigned to this action¹ has prepared a Report and Recommendation and opines that the complaint should be summarily dismissed under 28 U.S.C. § 1915(e)(2)(B). The Report sets forth in detail the relevant facts and standards of law on this matter, and the court incorporates such without a recitation.

The plaintiff was notified of his right to file objections to the Report and Recommendation. The plaintiff filed timely objections to the Report.

¹ The Magistrate Judge’s review is made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02. The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *Mathews v. Weber*, 423 U.S. 261 (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 to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b)(1).

The Magistrate Judge correctly opines that the South Carolina Department of Corrections has immunity from suit in this court under the Eleventh Amendment to the United States Constitution.

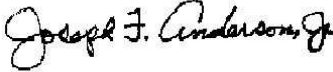
The plaintiff objects to this finding asserting that the State did not give him time to properly file his paperwork. He also indicates that he sent his paperwork to a private law firm to review. He then attaches a letter, dated April 11, 2012, from the Bell Legal Group that indicates it will look further into his case. To date, however, no appearance has been made on behalf of the plaintiff by the Bell Legal Group.

After carefully reviewing the applicable laws, the record in this case, the Report and Recommendation, and the objections thereto, this court finds the Magistrate Judge's recommendation fairly and accurately summarizes the facts and applies the correct principles of law. The Report is incorporated herein by reference.

Accordingly, this action is dismissed without prejudice and without issuance and service of process.

IT IS SO ORDERED.

September 18, 2012
Columbia, South Carolina


Joseph F. Anderson, Jr.
United States District Judge