

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

Kelly Bruton,)	
)	
Plaintiff,)	Civil Action No. 0:13-CV-346-JMC
)	
v.)	OPINION AND ORDER
)	
)	
South Carolina Department of Corrections,)	
)	
Defendants)	
_____)	

This matter is before the court upon review of the Magistrate Judge's Report and Recommendation ("Report"), filed on April 30, 2013, recommending that this case be remanded to state court. [Dkt. No. 19]. Defendant removed the action to this court on February 7, 2013. [Dkt. No. 1]. On February 21, 2013, Defendant filed a Motion to Dismiss. [Dkt. No. 7]. On February 26, 2013, Plaintiff filed a Motion to Remand [Dkt. No. 11], arguing that he has not asserted any federal claims. Neither party claims that diversity jurisdiction is applicable here. Plaintiff also filed a Motion to Stay. [Dkt. No. 16]. The Report recommends that the Motion to Remand be granted and that the Motion to Dismiss and Motion to Stay be denied as moot. Neither party objected to the Report, and the time for doing so has expired.

The Magistrate Judge's Report is made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 for the District of South Carolina. The Magistrate Judge makes only a recommendation to this court, which 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 to which specific objections are made. The parties were advised of their right to file

objections but neither party did so.

In the absence of objections to the Magistrate Judge's Report, this court is not required to provide an explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Rather, “in the absence of a timely filed objection, a district court need not conduct a *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.’” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (*quoting* Fed. R. Civ. P. 72 advisory committee's note). Furthermore, failure to file specific written objections to the Report results in a party's waiver of the right to appeal from the judgment of the District Court based upon such recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985).

After a thorough review of the Report and Recommendation and the record in this case, the court **ACCEPTS** the Magistrate Judge's Report and Recommendation. [Dkt. No. 19]. The Motion to Remand [Dkt. No. 11] is **GRANTED** as this court does not have federal question or diversity jurisdiction. This case is properly **REMANDED** to state court. Defendants' Motion to Dismiss [Dkt. No. 7] and Plaintiff's Motion to Stay [Dkt. No. 16] are denied as moot.

IT IS SO ORDERED.

A handwritten signature in black ink that reads "J. Michelle Childs". The signature is written in a cursive, flowing style.

United States District Judge

Greenville, South Carolina
June 20, 2013