

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

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|---|---|---------------------------|
| Mr. Leroy Lockett, |) | C/A NO. 0:13-2115-CMC-PJG |
| |) | |
| Plaintiff, |) | |
| |) | OPINION and ORDER |
| v. |) | |
| |) | |
| Ms. S. Bracey Simon, Lee Correctional |) | |
| Postal/Mailroom Staff; Associate Warden |) | |
| J.J. Brooks, Jr., |) | |
| |) | |
| Defendants. |) | |
| _____ |) | |

This matter is before the court on Plaintiff’s *pro se* complaint, filed in this court pursuant to 42 U.S.C. § 1983.

In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02 (B)(2)(d), DSC, this matter was referred to United States Magistrate Judge Paige J. Gossett for pre-trial proceedings and a Report and Recommendation (“Report”). On October 3, 2014, the Magistrate Judge issued a Report recommending that Defendants’ motion to dismiss be granted in part and denied in part and that Plaintiff’s motion to file unnotarized documents be terminated as moot. The Magistrate Judge advised the parties of the procedures and requirements for filing objections to the Report and the serious consequences if they failed to do so. Plaintiff filed objections to the Report on October 22, 2014.

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. *See Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of any portion of the Report of the Magistrate Judge to which a specific objection is

made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b).

After conducting a *de novo* review as to objections made, and considering the record, the applicable law, the Report and Recommendation of the Magistrate Judge, and Plaintiff's objections, the court agrees with the conclusions of the Magistrate Judge. Accordingly, the court adopts and incorporates the Report and Recommendation by reference in this Order. Plaintiff's objections do not specifically address the Report and Recommendation; rather, the objections are more in the vein of argument relating to merits of Plaintiff's claim. Accordingly, Defendants' motion to dismiss is granted as to any claims in Plaintiff's Amended Complaint which question the validity of Plaintiff's conviction or implicate the duration of his sentence. Defendants' motion is denied as to Plaintiff's due process and court access claims. Plaintiff's motion to file unnotarized documents is terminated as moot.

This matter is re-referred to the United States Magistrate Judge for further pretrial proceedings, including the issuance of a scheduling order.

IT IS SO ORDERED.

s/ Cameron McGowan Currie
CAMERON MCGOWAN CURRIE
SENIOR UNITED STATES DISTRICT JUDGE

Columbia, South Carolina
November 3, 2014