

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA**

Larry Ward, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 United States of America; Federal Bureau )  
 of Prisons; Director Charles Samuels, in his )  
 official and individual capacities; Rear )  
 Admiral Newton E. Kendig, M.D., in his )  
 official and individual capacities; Warden )  
 M. Cruz, in her official and individual )  
 capacities; Doctor Victor Loranth, in his )  
 official and individual capacities; John/Jane )  
 Doe, Statutory Agent Officers, in their )  
 individual and official capacities; David M. )  
 Woodbury, M.D.; Timothy R. Wagner, )  
 M.D.; Sharon Poston, CEO, )  
 )  
 Defendants. )  
 \_\_\_\_\_ )

C/A No.: 0:14-cv-4762 DCN PJG

**ORDER**

The above referenced case is before this court upon the magistrate judge's recommendation that the FTCA claims against defendant Federal Bureau of Prisons and any individually named defendant be dismissed, that the Bivens claims against defendants Federal Bureau of Prisons, United States of America, David M. Woodbury, M.D., Timothy R. Wagner, M.D., and Sharon Poston, CEO be dismissed, and that the negligence or medical malpractice claims against defendants Doctor Victor Loranth, Woodbury and Wagner be dismissed. It was further recommended that defendants Federal Bureau of Prisons, Woodbury and Wagner be dismissed without prejudice and without issuance and service of process.

This court is charged with conducting a de novo review of any portion of the magistrate judge's report to which a specific objection is registered, and may accept, reject, or

modify, in whole or in part, the recommendations contained in that report. 28 U.S.C. § 636(b)(1). However, absent prompt objection by a dissatisfied party, it appears that Congress did not intend for the district court to review the factual and legal conclusions of the magistrate judge. Thomas v Arn, 474 U.S. 140 (1985). Additionally, any party who fails to file timely, written objections to the magistrate judge's report pursuant to 28 U.S.C. § 636(b)(1) waives the right to raise those objections at the appellate court level. United States v. Schronce, 727 F.2d 91 (4th Cir. 1984), cert. denied, 467 U.S. 1208 (1984 ).<sup>1</sup> **No objections have been filed to the magistrate judge's report and recommendation.**


A de novo review of the record indicates that the magistrate judge's report accurately summarizes this case and the applicable law. Accordingly, the magistrate judge's report and recommendation is **AFFIRMED**, and the following claims are **DISMISSED** from the amended complaint: (1) FTCA claims against defendant Federal Bureau of Prisons and any individually named defendant; (2) Bivens claims against defendants Federal Bureau of Prisons, United States of America, Woodbury, Wagner and Poston; and (3) negligence or medical malpractice claims against defendants Loranth, Woodbury and Wagner.

**IT IS FURTHER ORDERED** that defendants Federal Bureau of Prisons, Woodbury and Wagner are **DISMISSED** without prejudice and without issuance and service of process.

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<sup>1</sup>In Wright v. Collins, 766 F.2d 841 (4th Cir. 1985), the court held "that a pro se litigant must receive fair notification of the consequences of failure to object to a magistrate judge's report before such a procedural default will result in waiver of the right to appeal. The notice must be 'sufficiently understandable to one in appellant's circumstances fairly to appraise him of what is required.'" Id. at 846. Plaintiff was advised in a clear manner that his objections had to be filed within ten (10) days, and he received notice of the consequences at the appellate level of his failure to object to the magistrate judge's report.

**AND IT IS SO ORDERED.**



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David C. Norton  
United States District Judge

April 13, 2015  
Charleston, South Carolina

**NOTICE OF RIGHT TO APPEAL**

The parties are hereby notified that any right to appeal this Order is governed by Rules 3 and 4 of the Federal Rules of Appellate Procedure.