

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

Daniel R. McClain, )  
Plaintiff, ) C/A No. 0:15-4516-MBS  
vs. )  
Mr. Lefford Fate, Medical Director, )  
et al., )  
Defendants. )  
\_\_\_\_\_  
)

**O R D E R**

Plaintiff Daniel R. McClain is an inmate in custody of the South Carolina Department of Corrections (SCDC) who currently is housed at Turbeville Correctional Institution in Turbeville, South Carolina. On November 6, 2015, Plaintiff filed a complaint against numerous Defendants, contending that his constitutional rights have been violated in various respects. Plaintiff brings this action pursuant to 42 U.S.C. § 1983.

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Paige J. Gossett for pretrial handling. The Magistrate Judge reviewed the complaint pursuant to 28 U.S.C. § 1915, 28 U.S.C. § 1915A, the Prison Litigation Reform Act, and applicable precedents. The Magistrate Judge determined that Plaintiff had failed to assert sufficient factual allegations as to all Defendants except Defendants Mr. Lefford Fate and Dr. Paul Drago. The Magistrate Judge further determined that Plaintiff failed to state a cognizable claim against Defendant Drago. Accordingly, on December 11, 2015, the Magistrate Judge issued a Report and Recommendation in which she recommended that the complaint be summarily dismissed without prejudice as to all Defendants except Defendant Fate. Plaintiff filed no objection

to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). This court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the Magistrate Judge. 28 U.S.C. § 636(b)(1). This court may also receive further evidence or recommit the matter to the Magistrate Judge with instructions. Id. 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).

The court has thoroughly reviewed the record. The court concurs in the Report and Recommendation and incorporates it herein by reference. The complaint is dismissed *without prejudice* as to all Defendants except Defendant Fate. The matter is recommitted to the Magistrate Judge for further pretrial handling.

**IT IS SO ORDERED.**

/s/ Margaret B. Seymour  
Senior United States District Judge

Columbia, South Carolina

January 14, 2016.