



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

DUSTIN ROBERT WILLIAMSON,
Plaintiffs,

vs.

CLARANCE ROGERS and DEBRA
EASTRIDGE,
Defendants.

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CIVIL ACTION NO. 0:15-4755-MGL

**AMENDED ORDER ADOPTING THE REPORT AND RECOMMENDATION,
DISMISSING PLAINTIFF'S SECOND AMENDED COMPLAINT
WITHOUT PREJUDICE AND WITHOUT ISSUANCE AND SERVICE OF PROCESS,
AND RENDERING AS MOOT ALL OF THE PENDING MOTIONS**

This Order amends the Court's June 22, 2017, Order. Plaintiff filed his notice of appeal as to the Court's judgment regarding that Order on July 19, 2017.

"The general rule is that the filing of a timely and sufficient notice of appeal immediately transfers jurisdiction of all matters relating to the appeal from the district court to the court of appeals. The rule is not absolute, however." *Grand Jury Proceedings Under Seal v. United States*, 947 F.2d 1188, 1190 (4th Cir. 1991). For instance, this Court "does not lose jurisdiction to proceed as to matters in aid of the appeal. The rule is a judge-made doctrine designed to avoid the confusion and waste of time that might flow from putting the same issues before two courts at the same time." *Id.*

Plaintiff filed his objections to the Report and Recommendation of the Magistrate Judge (the Report) after the Court entered judgment. In the interest of justice and an abundance of caution, the

Court will accept the untimely filed objections. The Court is of the firm opinion its consideration of the submission in “in aid of the appeal.” *Id.*

This is a 42 U.S.C. § 1983 action. The matter is before the Court for review of the Report suggesting Plaintiff’s Second Amended Complaint be dismissed without prejudice and without issuance and service of process. The Report was made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a de novo determination of those portions of the Report 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 with instructions. 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed the Report on June 2, 2017, and the Clerk of Court entered Plaintiff’s objections to the Report on June 29, 2017. The Court has reviewed the objections, but holds them to be without merit. Therefore, it will enter judgment accordingly.

In Plaintiff’s objections, he generally reargues issues already considered and rejected by the Magistrate Judge. Because the Court agrees with the Magistrate Judge’s discussion of those claims, it need not repeat the analysis here. Suffice it to say the objections will be overruled.

After a thorough review of the Report and the record in this case pursuant to the standard set forth above, the Court overrules Plaintiff’s objections, adopts the Report, and incorporates it herein. Therefore, it is the judgment of the Court Plaintiff’s Second Amended Complaint is **DISMISSED WITHOUT PREJUDICE** and without issuance and service of process.

This decision necessarily **RENDERS AS MOOT** all of the pending motions to dismiss. Further, inasmuch as Plaintiff filed his notice of appeal within the time period provided by

the applicable rules, his motion to extend the time for filing his notice of appeal is also
RENDERED AS MOOT.

IT IS SO ORDERED.

Signed this 20th day of July, 2017, in Columbia, South Carolina.

s/ Mary Geiger Lewis
MARY GEIGER LEWIS
UNITED STATES DISTRICT JUDGE

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this Order within thirty days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.