

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

Dell Lafayette Carter,

PLAINTIFF,

v.

Rayford Ervin, Frank Sadler, and Gary Love,

DEFENDANTS.

Case No. 0:16-cv-00742-TLW

Order

Plaintiff Dell Lafayette Carter, proceeding pro se, filed this action alleging a violation of his civil rights, which the Court construes as a claim under 42 U.S.C. § 1983. ECF No. 1. The matter now comes before the Court for review of two Report and Recommendations (R&Rs) filed on May 20 and September 13, 2016, by Magistrate Judge Gossett, to whom this case was assigned. ECF Nos. 85 & 170. In the first R&R, the magistrate judge recommends that Plaintiff's Complaint should be summarily dismissed without prejudice and without issuance of service of process as to Defendants Rayford Ervin and Frank Sadler. ECF No. 85. In the second R&R, the magistrate judge recommends that Defendant Gary Love, the last remaining Defendant, should be dismissed without prejudice pursuant to Federal Rule of Civil Procedure 4(m). ECF No. 170. Plaintiff filed objections to the respective R&Rs on May 27 and September 19, 2016. ECF Nos. 89 & 178. This matter is now ripe for decision.

In reviewing the R&R, the Court applies the following standard:

The magistrate judge makes only a recommendation to the Court, to which any party may file written objections The Court is not bound by the recommendation of the magistrate judge but, instead, retains responsibility for the final determination. The Court is required to make a de novo determination of those portions of the report or specified findings or recommendation as to which an objection is made. However, the Court is not required to review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the report and recommendation to which no objections are

addressed. While the level of scrutiny entailed by the Court's review of the Report thus depends on whether or not objections have been filed, in either case the Court is free, after review, to accept, reject, or modify any of the magistrate judge's findings or recommendations.

Wallace v. Hous. Auth. of City of Columbia, 791 F. Supp. 137, 138 (D.S.C. 1992) (citations omitted).

In light of the standard set forth in Wallace, the Court has reviewed, de novo, the R&Rs and the objections. After careful review of the R&Rs and the objections, for the reasons stated by the magistrate judge, both R&Rs are **ACCEPTED**. Plaintiff's objections are **OVERRULED**. Plaintiff's Complaint is hereby **DISMISSED** without prejudice and without issuance of service of process as to Defendants Rayford Ervin and Frank Sadler and **DISMISSED** without prejudice as to Defendant Gary Love.

Additionally, Plaintiff filed multiple documents that purport to be motions for recusal, for a hearing, and to reinstate Defendants Rayford Ervin and Frank Sadler. ECF Nos. 12, 99, & 123. Having carefully considered these filings, these motions are **DENIED** as being without sufficient legal merit. See United States v. Patel, 879 F.2d 292, 295 (7th Cir. 1989) ("When issues patently lack merit, the reviewing court is not obliged to devote scarce judicial resources to a written discussion of them.").

IT IS SO ORDERED.

s/ Terry L. Wooten

Terry L. Wooten
Chief United States District Judge

March 1, 2017
Columbia, South Carolina