

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

Larry Jerome Rainey, )  
)  
Plaintiff, )  
)  
v. )  
)  
Classification Mr. Bethea; Mrs. Roberts; )  
Ms. Styles; Mr. Willie Eagleton, )  
)  
Defendants. )  
\_\_\_\_\_ )

Civil Action No. 0:16-2113-RMG

**ORDER AND OPINION**

This matter is before the Court on the Report and Recommendation of the Magistrate Judge, recommending that Defendants’ motion for summary judgment be granted. For the reasons set forth below, the Court adopts the Report and Recommendation.

**I. Background**

Plaintiff was incarcerated at Evans Correctional Institution of the South Carolina Department of Corrections on September 22, 2015, when he asserts that as he was taking the stairs to his room, he fell and broke three ribs on his right side. He claims he has a “medical profile” indicates that he should not climb or lift anything over ten pounds, but Defendants nevertheless placed him in a housing unit that required him to walk down stairs to access his bed. He also claims that using stairs caused his left knee to swell. Plaintiff filed this action on June 20, 2016, alleging Defendants placed Plaintiff in improper housing based on his medical profile in violation of the Eighth Amendment. On June 29, 2017, the Magistrate Judge recommended summary judgment for Defendants. Plaintiff filed no objections to the Report and Recommendation.

## **II. Legal Standard**

### **A. Report and Recommendation**

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility for making a final determination remains with this Court. *Mathews v. Weber*, 423 U.S. 261, 270–71 (1976). This Court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objection is made. Additionally, the 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.* Where the plaintiff fails to file any specific objections, “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,” *see Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (internal quotation omitted), and this Court is not required to give any explanation for adopting the recommendation of the Magistrate Judge, *Camby v. Davis*, 718 F.2d 198 (4th Cir. 1983).

### **B. Summary Judgment**

Summary judgment is appropriate if a party “shows that there is no genuine dispute as to any material fact” and that the movant is entitled to judgment as a matter of law. Fed. R. Civ. P. 56(a). In other words, summary judgment should be granted “only when it is clear that there is no dispute concerning either the facts of the controversy or the inferences to be drawn from those facts.” *Pulliam Inv. Co. v. Cameo Props.*, 810 F.2d 1282, 1286 (4th Cir. 1987). “In determining whether a genuine issue has been raised, the court must construe all inferences and ambiguities in favor of the nonmoving party.” *HealthSouth Rehab. Hosp. v. Am. Nat’l Red Cross*, 101 F.3d 1005, 1008 (4th Cir. 1996). The party seeking summary judgment shoulders the initial burden of

demonstrating to the court that there is no genuine issue of material fact. *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986).

Once the moving party has made this threshold demonstration, the non-moving party, to survive the motion for summary judgment, may not rest on the allegations averred in his pleadings. *Id.* at 324. Rather, the non-moving party must demonstrate that specific, material facts exist that give rise to a genuine issue. *Id.* Under this standard, “[c]onclusory or speculative allegations do not suffice, nor does a ‘mere scintilla of evidence’” in support of the non-moving party’s case. *Thompson v. Potomac Elec. Power Co.*, 312 F.3d 645, 649 (4th Cir. 2002) (quoting *Phillips v. CSX Transp., Inc.*, 190 F.3d 285, 287 (4th Cir. 1999)).

### **III. Discussion**

To state a claim under 42 U.S.C. § 1983, a plaintiff must allege: (1) that a right secured by the Constitution or laws of the United States was violated, and (2) that the alleged violation was committed by a person acting under the color of state law. *West v. Atkins*, 487 U.S. 42, 48 (1988). The present complaint, which alleges failure to provide appropriate medical care or accommodations, is properly construed as a claim of deliberate indifference to medical needs in violation of the Eighth Amendment. A deliberate indifference claim requires an inmate to establish (1) a sufficiently serious deprivation occurred, resulting “in the denial of the minimal civilized measure of life’s necessities,” and (2) that the prison official had a sufficiently culpable state of mind. *Farmer v. Brennan*, 511 U.S. 825, 834 (1994).

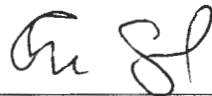
The Magistrate Judge recommends summary judgment for Defendants because Plaintiff has produced no evidence that a serious deprivation of medical care or accommodations has occurred. The Court agrees. Plaintiff has not even stated what condition prevents him from using stairs. Medical records show that while Plaintiff has a history of reporting back, neck, and knee issues, medical personnel have found nothing wrong with Plaintiff’s back, neck, or knee and

believed Plaintiff was malingering. Further, there is no evidence Plaintiff suffered broken ribs on September 22, 2015. Because there is no evidence Plaintiff has suffered any deprivation of medical care, much less a deprivation sufficiently serious to violate the Constitution, Defendants are entitled to judgment as a matter of law.

**IV. Conclusion**

For the foregoing reasons, the Court **ADOPTS** the Report and Recommendation of the Magistrate Judge (Dkt. No. 56) as the Order of the Court and **GRANTS** Defendants' motion for summary judgment (Dkt. No. 50.).

**AND IT IS SO ORDERED.**



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Richard Mark Gergel  
United States District Court Judge

July 22, 2017  
Charleston, South Carolina