



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

MARSHALL LEON WATKINS,
Plaintiff,

vs.

NURSE JONES, LIEUTENANT SMITH,
LIEUTENANT SURRETT, SGT LAWLESS
LIEUTENANT BLACKWELL; LT. TAYLOR,
MS. PHYALL, and JAMES SIMMONS,
Defendants.

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CIVIL ACTION NO. 0:17-135-MGL-PJG

**ORDER ADOPTING THE REPORT AND RECOMMENDATION,
GRANTING DEFENDANT JONES'S MOTION TO DISMISS,
GRANTING DEFENDANTS LAWLESS, SIMMONS,
AND SMITH'S MOTION FOR SUMMARY JUDGMENT,
DISMISSING WITHOUT PREJUDICE THE CLAIMS
AGAINST THE REMAINING DEFENDANTS,
AND DENYING PLAINTIFF'S MOTION FOR THE COURT TO RULE IN HIS FAVOR**

Plaintiff Marshall Leon Watkins, a self-represented state prisoner, filed this action under 42 U.S.C. § 1983. The matter is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge suggesting (1) Defendant Nurse Jones's motion to dismiss be granted; (2) Defendants Sergeant. Lawless, James Simmons, and Lieutenant Smith's motion for summary judgment be granted; (3) the claims against Defendants Lieutenant Surrett, Lieutenant Blackwell, Lieutenant Taylor, and Ms. Phyll be dismissed without prejudice in accordance with Fed. R. Civ. P. 4(m); and (4) Watkins's motion for the Court to rule in his favor be

denied. 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 October 31, 2018. The parties have filed numerous documents since then. The Court enumerates the pertinent ones here:

- November 5, 2018** The Clerk filed Watkins’s request the Court set a trial against Jones, along with his conclusory allegations of wrongdoing;
- November 7, 2018** The Clerk filed Watkins’s submission “ask[ing] the Court to oppose” the motions filed by Defendants;
- November 9, 2018** The Clerk filed Watkins’s objections to the Report;
- November 9, 2018** Jones filed her reply to Watkins’s objections;
- November 13, 2018** The Clerk filed Watkins’s supplemental objections;
- November 13, 2018** Lawless, Simmons, and Smith filed their reply to Watkins’s objections;
- November 15, 2018** The Clerk filed Watkins’s second set of supplemental objections;
- November 19, 2018** Jones filed a sur reply; and
- November 26, 2018** Lawless, Simmons, and Smith filed a sur-reply.

The Court begins with its consideration of Watkins's November 5, 2018, and November 7, 2018, submissions. They are so lacking in substance and merit as to require no discussion. Suffice it to say the Court will deny the requests contained therein.

Watkins's objections and two sets of supplemental objections fare no better. Watkins presents no specific objections to the Report. He instead hurls one conclusory accusation after another at Defendants, yet provides no legal support for his claims. Therefore, the Court will overrule his objections.

After a thorough review of the Report and the record in this case pursuant to the standard set forth above, the Court overrules Watkins's objections, adopts the Report, and incorporates it herein. Therefore, it is the judgment of the Court (1) Defendant Jones's motion to dismiss is **GRANTED**, (2) Defendants Lawless, Simmons, and Smith's motion for summary judgment is **GRANTED**; (3) the claims against Defendants Surratt, Blackwell, Taylor, and Phyll are **DISMISSED WITHOUT PREJUDICE** in accordance with Fed. R. Civ. P. 4(m); and (4) Watkins's motion for the Court to rule in his favor is **DENIED**.

To the extent Watkins has raised any state claims against Defendants, those claims are **DISMISSED WITHOUT PREJUDICE** so he may pursue them in state court if he wishes to do so.

IT IS SO ORDERED.

Signed this 29th day of November, 2018, 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 the Federal Rules of Appellate Procedure.