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

Jay Patton Shealy, Plaintiff, v. City of Rock Hill; Rock Hill Police Department; York County Detention Center, Defendants.	)	C/A No.: 17-cv-1194-TLW **ORDER**

Plaintiff Jay Patton Shealy, proceeding *pro se*, filed this civil rights action in the York County Court of Common Pleas. ECF No. 1. On May 5, 2017, Defendants City of Rock Hill and Rock Hill Police Department removed this action to federal court. *Id.* Plaintiff has now filed a motion for summary judgment, ECF No. 35, which Defendants oppose, ECF Nos. 47, 48.

This matter now comes before this Court for review of the Report and Recommendation ("the Report") filed on November 30, 2017, by United States Magistrate Judge Paige J. Gossett, to whom this case was previously assigned pursuant to 28 U.S.C. § 636(b) and Local Civ. Rule 73.02(B)(2), (D.S.C.). In the Report, the Magistrate Judge recommends denying Plaintiff's motion for summary judgment. ECF No. 72. Plaintiff filed objections to the Report on December 18, 2017. ECF No. 74. This case is now ripe for disposition.

The Court is charged with conducting a *de novo* review of any portion of the Magistrate Judge's Report and Recommendation to which a specific objection is registered, and may accept, reject, or modify, in whole or in part, the recommendations contained in that report. 28 U.S.C. § 636. In conducting its review, 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. Housing Auth. of the 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 Report, the objections, and the applicable law. In his objections, Plaintiff disputes that Defendant York County Detention Center's answer was timely filed. However, Rule 81 of the Federal Rules of Civil Procedure requires a defendant who did not answer before removal to answer within seven days after the notice of removal is filed. Fed. R. Civ. P. 81(c)(2)(C). Thus, after careful consideration, the Report, ECF No. 72, is hereby **ACCEPTED**, and Plaintiff's Objections, ECF No. 74, are **OVERRULED**. For the reasons stated in the Report and those stated herein, Plaintiff's Motion for Summary Judgment, ECF No. 35, is hereby **DENIED**.

IT IS SO ORDERED.

s/Terry L. Wooten
Chief United States District Judge

December 20, 2017
Columbia, South Carolina