

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

David Royal Lee,

Plaintiff,

vs.

Winthrop University; Jennie F. Rakestraw,
professionally and individually; and Pamela
D. Wash, *professionally and individually*,

Defendants.

C/A No. 0:17-1476-JFA-PJG

ORDER

David Royal Lee (“Plaintiff”), proceeding *pro se*, brings this action raising claims pursuant to 42 U.S.C. § 1983 and state law against Winthrop University and two faculty members (“Defendants”). Plaintiff claims violations of his due process and equal protection rights under the Fourteenth Amendment, as well as state law claims of gross negligence and intentional infliction of emotional distress. This case arises out of the dismissal of Plaintiff from a graduate studies program at a state university.

Defendants filed a Motion for Summary Judgment on July 19, 2018. (ECF No. 75). By order issued on July 20, 2018, pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), Plaintiff was advised of the procedure in regards to the Motion for Summary Judgment and the possible consequences if he failed to respond adequately to Defendant’s Motion. (ECF No. 76). Plaintiff filed a response to Defendants’ Motion on August 21, 2018. (ECF No. 87). Defendants replied on August 27, 2018. (ECF No. 92).

The Magistrate Judge assigned to this action¹ has prepared a comprehensive Report and Recommendation wherein she opines that this Court should grant Defendant's Motion for Summary Judgment because (1) Plaintiff's claims under federal law fail because Winthrop University is immune from suit, and the two individual faculty members are immune from suit to the extent Plaintiff sues them in their official capacities; (2) with regard to Plaintiff's § 1983 claims, no reasonable jury could find a constitutional deprivation; (3) with regard to Plaintiff's due process claim, the undisputed evidence here shows Plaintiff was not deprived of procedural or substantive due process when he was dismissed from the program; (4) with regard to Plaintiff's state law claim for intentional infliction of emotional distress, under the South Carolina Torts Claims Act, such claims are not cognizable; and (5) Plaintiff's state law claim for gross negligence fails as a matter of law because the evidence does not permit a reasonable inference that Defendants were not careful and deliberate in deciding to dismiss Plaintiff. The Report sets forth in detail the relevant facts and standards of law on this matter, and the Court incorporates such without a recitation.

Plaintiff was further advised of his right to file objections to the Report and Recommendation, which was entered on the docket on September 7, 2018. (ECF No. 98). However, Plaintiff did not file any objections to the Report within the time limits prescribed. In the absence of specific objections to the Report of the Magistrate Judge, this Court is not required

¹ The Magistrate Judge's review is made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02. The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261 (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 to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1).

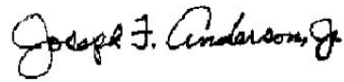
to give any explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983).

After carefully reviewing the applicable laws, the record in this case, and the Report and Recommendation, this Court finds that the Magistrate Judge's recommendation fairly and accurately summarizes the facts and applies the correct principles of law. Accordingly, the Court adopts the Report and Recommendation. (ECF No. 98).

Accordingly, Defendants' Motion for Summary Judgment (ECF No. 75) is granted.

IT IS SO ORDERED.

November 29, 2018
Columbia, South Carolina


Joseph F. Anderson, Jr.
United States District Judge