

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

Phillip Asher,)
)
 Plaintiff,)
)
 v.)
)
 U.S. Dept. of Justice,)
)
 Defendant.)
 _____)

C/A No. 0:17-1650-TMC

ORDER

Plaintiff Phillip Asher, proceeding *pro se*, filed this action pursuant to 42 U.S.C. § 1983 alleging claims pursuant to the Religious Land Use and Institutionalized Persons Act (“RLUIPA”), 42 U.S.C. §§ 2000cc, et seq. (ECF No. 8). Plaintiff has also filed a motion for a preliminary injunction. (ECF No. 5). In accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02, D.S.C., this matter was referred to a magistrate judge for pretrial handling. On August 31, 2017, the Magistrate Judge filed a Report and Recommendation (“Report”) in which she recommended that the Amended Complaint be dismissed without prejudice and without issuance and service of process and the motion for a preliminary injunction be terminated. (ECF No. 13). The Plaintiff was informed of his right to file objections to the Report. (ECF No. 13 at 5). However, he did not file objections and the time to do so has now run.

The Report has no presumptive weight and the responsibility to make a final determination in this matter remains with this court. *See Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). In the absence of objections, this court is not required to provide an explanation for adopting the Report. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Rather, “in the absence of a timely filed objection, 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.” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note). Furthermore, failure to file specific written objections to the Report results in a party’s waiver of the right to appeal the district court’s judgment based upon that recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984).

After a thorough review of the Report and the record in this case, the court adopts the Magistrate Judge’s Report (ECF No. 13) and incorporates it herein. Therefore, the Amended Complaint is **DISMISSED** without prejudice and without issuance and service of process and the motion for a preliminary injunction (ECF No. 5) is terminated.

IT IS SO ORDERED.

s/Timothy M. Cain
United States District Judge

September 25, 2017
Anderson, South Carolina

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.