

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
AIKEN DIVISION

Michael Anthony McKeown,)
)
 Plaintiff,)
)
 v.)
)
 Karen C. Ratigan, Rodney Wade Richey,)
 C. Denton Matthews, Linda Whisenhunt,)
 Skip Goldsmith,)
)
 Defendants.)
)
 _____)

C.A. No. 1:09-00655-JMC

OPINION & ORDER

This matter is now before the court upon the Report and Recommendation of the magistrate judge, made in accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02 of the District of South Carolina. In her Report and Recommendation, the magistrate judge reviewed the following motions: (1) Defendant Ratigan’s Motion for Summary Judgment [Entry #42]; (2) Defendants Matthews and Whisenhunt’s Motion to Stay Discovery [Entry #44]; (3) Defendants Matthews and Whisenhunt’s Motion for Summary Judgment/Dismissal [Entry #56]; (4) Defendant Richey’s Motion for Summary Judgment [Entry #57]; (5) Plaintiff McKeown’s Motion to Stay [Entry #59]; (6) Plaintiff McKeown’s Motion for Default Judgment as to Defendant Richey [Entry #66]; (7) Plaintiff McKeown’s Motion to Dismiss [Entry #67]; (8) Plaintiff McKeown’s Motion to Clarify and Verify Motion to Dismiss [Entry #79]; and (9) Plaintiff McKeown’s Motion for Preliminary Injunction [Entry #81]. The magistrate judge recommends granting the respective defendants’ motions for summary judgment, dismissing any remaining motions as moot, and dismissing the case in its entirety. The Report and Recommendation sets forth in detail the relevant facts and the court incorporates such without a recitation.

STANDARD OF REVIEW

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 this court. *See Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). The court is charged with making a *de novo* determination of those portions of the Report and Recommendation 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. *See* 28 U.S.C. § 636(b)(1).

DISCUSSION

Michael Anthony McKeown (“McKeown”) is a *pro se* state prisoner seeking relief for alleged violations of his constitutional rights, which are construed as brought pursuant to 42 U.S.C. § 1983, and violations of state law.

After receiving the magistrate judge’s Report and Recommendation on the pending motions, McKeown timely filed objections. Objections to the Report and Recommendation must be specific. Failure to file specific objections constitutes a waiver of a party’s right to further judicial review, including appellate review, if the recommendation is accepted by the district judge. *See United States v. Schronce*, 727 F.2d 91, 94 & n.4 (4th Cir. 1984). In the absence of specific objections to the Report and Recommendation of the magistrate judge, this court is not required to give any explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983).

Upon review, the court finds that the majority of McKeown’s objections are non-specific, unrelated to the dispositive portions of the magistrate judge’s Report and Recommendation, or merely restate his claims. However, the court was able to discern one specific objection to the magistrate judge’s finding that these defendants are entitled to prosecutorial immunity.

A prosecutor is immune from a civil suit for damages alleged to have occurred out of the prosecution and presentment of the State's case. *Imbler v. Patchman*, 424 U.S. 409, 431 (1976).

The immunity is absolute where the prosecutor's activities are "intimately associated with the judicial phase of the criminal process." *Id.* at 430. McKeown asserts that there are genuine issues of material fact as to whether these defendants were acting within the scope of their employment such that they would be entitled to immunity. However, McKeown fails to articulate any facts to support his allegation that any of these defendants acted outside the realm of the judicial process in the handling of his case. Therefore, after a thorough review of the magistrate judge's Report and Recommendation and the record in this case, the court adopts the magistrate judge's Report and Recommendation and incorporates it herein by reference.

Having found that these defendants are entitled to summary judgment regarding McKeown's constitutional claims, the court declines to exercise supplemental jurisdiction over any claims for relief asserted against the defendants pursuant to state law. *See* 28 U.S.C. § 1367(c).

It is therefore **ORDERED** that these defendants' motions for summary judgment [Entries #42, 56, and 57] are granted, and that McKeown's complaint for relief is dismissed in its entirety. It is further **ORDERED** that all other pending motions [Entries #44, 59, 66, 67, 79, and 81] are denied as moot.

IT IS SO ORDERED.

s/ J. Michelle Childs
United States District Judge

September 2, 2010
Greenville, South Carolina