

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

T. Terell Bryan,)	C.A. No. 1:10-cv-02834-TLW
)	
Plaintiff,)	
)	
-versus-)	ORDER
)	
Defense Technology, U.S., U.S. Attorney,)	
Linda Holmes, Darrell A. Basinger, Jane Doe,)	
South Carolina Department of Corrections,)	
)	
Defendants.)	
)	

The Plaintiff has brought this *pro se* action against the Defendants under Title 42, United States Code, Section 1983. This matter is now before the undersigned for review of the Report and Recommendation (“the Report”) filed by United States Magistrate Judge Shiva V. Hodges, to whom this case had previously been assigned pursuant to 28 U.S.C. § 636(b) and Local Rule 73.02(B)(2) (D.S.C.).¹ In her Report, Magistrate Judge Hodges recommends that Plaintiff’s motions to remand and to amend the complaint be denied. (Doc. # 80). Additionally, it is recommended that Defendant Basinger be granted summary judgment and that Defendants Holmes, Doe, the SCDC, and the U.S. Attorney be dismissed for failure to effect service of process pursuant to Fed. R. Civ. P. 4(m).² Id.

¹Plaintiff has filed a “Motion to Waive Magistrate.” Defendants filed a response in opposition to this motion on September 1, 2011. Plaintiff filed a Reply on September 16, 2011. (Doc. # 94). After careful review and consideration, this motion is DENIED. (Doc. # 82).

²The Report notes, and this Court agrees that even in the event Plaintiff provides documentation showing he effected service of process, Plaintiff has not stated a claim for which relief may be granted against Holmes, as Plaintiff has no constitutional right to a grievance process. Adams v. Rice, 40 F.3d 72, 75 (4th Cir. 1994). Additionally, the SCDC is not a “person”

Finally, it is recommended that the district judge decline to exercise jurisdiction over Plaintiff's remaining state law claims pursuant to 28 U.S.C. § 1337(c) and that this matter be dismissed in its entirety. Id. The Report notes that if this recommendation is accepted, all other pending motions will be moot. Id. The Plaintiff has filed objections to the Report. (Doc. # 84).

In conducting this 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 this standard, the Court has reviewed, *de novo*, the Report and the objections thereto. The Court accepts the Report.

THEREFORE, IT IS HEREBY ORDERED that the Magistrate Judge's Report is **ACCEPTED** (Doc. # 80) and Plaintiff's objections are **OVERRULED** (Doc. # 84). Accordingly, as recommended in the Report, Plaintiff's motions to remand and to amend the complaint are **DENIED**; Defendant Basinger is **GRANTED** summary judgment and Defendants Holmes, Doe, the SCDC, and the U.S. Attorney are **DISMISSED** for failure to effect service of process pursuant to Fed. R. Civ. P. 4(m). This Court **DECLINES** to exercise jurisdiction over Plaintiff's remaining state law claims pursuant to 28 U.S.C. § 1337(c) and this matter is **DISMISSED** in its entirety. As

subject to suit pursuant to 28 U.S.C. § 1983.

noted in the Report, in light of this Court's acceptance of the Report, all other pending motions are now **MOOT**.

IT IS SO ORDERED.

s/ Terry L. Wooten

TERRY L. WOOTEN

UNITED STATES DISTRICT JUDGE

September 23, 2011
Florence, South Carolina