

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

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2012 MAY 16 A 9:22

Phillip Harold Jackson,

Plaintiff,

v.


Sheriff James Metts; and Sgt. Taylor,
Classification & Housing Sgt.,

Defendants.

Civil Action No. 1:11-3415-SB

ORDER

This matter is before the Court upon the Plaintiff's pro se complaint filed pursuant to 42 U.S.C. § 1983. In his complaint, the Plaintiff, who is a pre-trial detainee housed at Lexington County Detention Center, alleges that he has been housed in the same pods and on the same floors as five co-defendants in his pending state court case despite them being labeled as "keep-aways."



On January 17, 2012, United States Magistrate Judge Shiva V. Hodges issued a report and recommendation ("R&R") in accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2)(d) (D.S.C.), recommending that the Court dismiss the Plaintiff's case without prejudice and without issuance and service of process based on the Plaintiff's failure to allege the violation of a constitutional right. See, e.g., Sandin v. Connor, 515 U.S. 472 (1995) (stating that discretionary segregated placement within the prison did not implicate a liberty interest under Due Process Clause); Olin v. Wakinekona, 461 U.S. 238 (1983) (providing that the Due Process Clause does not itself create a liberty interest for prisoners to be free from interstate prison transfers).

The Plaintiff filed objections to the R&R, reiterating his claim that the jail gave him the right "to be kept away from all 'alleged' co-defendant[s]." (Entry 16 at 2.) In addition,

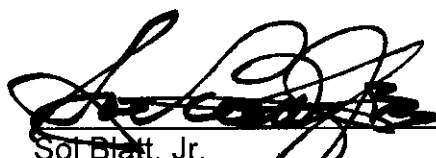
the Plaintiff asserts that his liberty has been endangered because co-defendants are making up stories about him. He asks that his "case be dropped" or that he "receive a substantial am[]ount of money," with the "amount" to be determined by the Defendants.

After a review of the record, the Court finds the Plaintiff's objections to be without merit. Not only does the Plaintiff fail to identify any legal error in the R&R, but also, he fails to identify any violation of a Constitutional right. Ultimately, the Court finds that the Magistrate Judge correctly summarized the facts and applied the correct legal standards, and, therefore, the Court agrees with the Magistrate Judge that dismissal of the Plaintiff's complaint, without prejudice, is appropriate under the circumstances.

Based on the foregoing, it is hereby

ORDERED that the R&R (Entry 14) is adopted and incorporated; the Plaintiff's objections (Entry 16) are overruled; and the Plaintiff's complaint is dismissed without prejudice and without issuance and service of process.

IT IS SO ORDERED.



Sol Blatt, Jr.
Senior United States District Judge

May 11, 2012
Charleston, South Carolina

