

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

Trovon Keith,)
)
 Plaintiff)
)
 v.)
)
 Captian Degeorgis; Officer Morgan; Larry)
 Cartledge; Florence Mauney; Rhonda Abston;)
 Sergeant McCall; Lieutenant Church; Lieutenant)
 Robertson; Lindsey Harris; Mr. Olson; Willie F.)
 Smith; Captain Miller; Major Early; and Sergeant J.)
 Fish,)
)
 Defendants)
)
 _____)

No. 1:14-cv-00036-RMG-SVH

ORDER

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 U.S. DISTRICT COURT
 DISTRICT OF SOUTH CAROLINA
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This matter is before the Court on the Report and Recommendation (“R & R”) of the Magistrate Judge recommending that the Court dismiss Plaintiff’s complaint against Defendants McCall, Olson, and Smith without prejudice and without issuance and service of process. (Dkt. No. 13.) For the reasons set forth below, the Court agrees with and ADOPTS the R & R as the order of the Court.

Background

Plaintiff, Trovon Keith, is a prisoner at Perry Correctional Institution (“PCI”). He filed this § 1983 suit alleging violations of his constitutional rights by employees of the South Carolina Department of Corrections (SCDC). (Dkt. No. 1). Among claims against other defendants that are not at issue here, Plaintiff claims that Defendant McCall violated his due process rights by providing false testimony in a disciplinary proceeding. (*Id.* at 9). He also alleges that he received tainted orange juice on August 21, 2013, and names Olson as the Food Service Director at PCI and Smith as the Food Service Administrator for SCDC. (*Id.* at 9-11).

The Magistrate Judge recommended that the claims against these three defendants be dismissed without prejudice and without issuance and service of process. (Dkt. No. 13.) Plaintiff has not filed an objection to the R & R.

Discussion

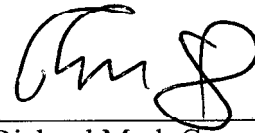
The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility for making a final determination remains with this Court. *Matthews v. Weber*, 423 U.S. 261, 270-71 (1976). This Court is charged with making a *de novo* determination of those portions of the R & R to which specific objection is made. Here, however, because no objection has been made, this Court "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 note). Moreover, in the absence of specific objections to the R & R, the Court need not give any explanation for adopting the Magistrate Judge's analysis and recommendation. *See Camby v. Davis*, 718 F.2d 198, 200 (4th Cir. 1983).

The Court agrees with the Magistrate Judge that Plaintiffs claims against Defendants McCall, Olson and Smith should be dismissed. For the reasons stated in the R & R, Plaintiff's claims against McCall are barred by *Heck*, and Plaintiff has failed to allege facts that would state a claim for supervisory liability against Olson and Smith.

Therefore, the Court **ADOPTS** the Magistrate Judge's R & R (Dkt. No. 13) as the order of the Court. Accordingly, Plaintiff's claims against Defendants McCall, Olson, and Smith are

DISMISSED without prejudice and without issuance and service of process, and these defendants are dismissed from this action.

AND IT IS SO ORDERED



Richard Mark Gergel
United States District Court Judge

April 18, 2014
Charleston, South Carolina