



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

DEAN ALTON HOLCOMB,
Plaintiff,

vs.

LIEUTENANT JEFF KINDLEY and 2
UNKNOWN SLED AGENTS,
Defendant.

§
§
§
§
§
§
§
§

CIVIL ACTION NO. 1:16-00672-MGL

ORDER ADOPTING THE REPORT AND RECOMMENDATION,
GRANTING DEFENDANT KINDLEY'S MOTION TO DISMISS, AND
DENYING AS MOOT PLAINTIFF'S MOTION TO RULE AND COMPEL DISCOVERY

This case was filed as a 42 U.S.C. § 1983 action. Plaintiff is proceeding pro se. The matter is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge suggesting Defendant Kindley's Motion to Dismiss be granted and Plaintiff's Motion to Rule and Compel Discovery be denied as moot. Further, the Report recommends the "2 Unknown SLED Agents" be dismissed because Plaintiff has failed to identify or serve these individuals. The Report was made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina.

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

The Magistrate Judge filed the Report on December 22, 2016, but Plaintiff failed to file any objections to the Report. “[I]n 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). Moreover, a failure to object waives appellate review. *Wright v. Collins*, 766 F.2d 841, 845-46 (4th Cir. 1985).

After a thorough review of the Report and the record in this case pursuant to the standard set forth above, the Court adopts the Report and incorporates it herein. Therefore, it is the judgment of the Court that Defendant Kindley’s Motion to Dismiss is **GRANTED**, whereas Plaintiff’s Motion to Rule and Compel Discovery is **DENIED AS MOOT**. Moreover, the “2 Unknown SLED Agents” are **DISMISSED** because Plaintiff has failed to identify or serve these individuals.

IT IS SO ORDERED.

Signed this 10th day of January, 2017, in Columbia, South Carolina.

s/ Mary Geiger Lewis

MARY GEIGER LEWIS
UNITED STATES DISTRICT JUDGE

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this Order within thirty days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.