

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

Anthony D. Williams, #14113-112,)	C/A No.: 1:16-3043-RMG-SVH
)	
Plaintiff,)	
)	
vs.)	
)	
Ms. Loretta Lynch, Attorney General;)	
Mr. Travis Bragg, C.E.O. Warden; Ian)	
Connor, National Inmate Appeal)	
Coordinator; M. Holliday, Chief)	
Dietitian; M. Furman, Associate)	
Warden; P. Kelly, Associate Warden;)	
Mr. Hicks, Institutional Captain; S.K.)	
Brosier, Admini_Remedy Coordinator;)	
Mr. Rich, CMC Coordinator; T.)	
Whitehead, Unit Manager; J. Ackerman,)	
Case Manager; Mrs. Roberts, Case)	
Manager; Mrs. Bennett, Secretary; Ms.)	
Prince, Correctional Officer; J. Onuoha;)	
Mr. Padilla, Food Service)	
Administrator; John/Jane Doe,)	
Designation and Sentence Computation)	
Unit Team; Ms. Murberry; United States)	
of America; Mr. Cox; Mr. Parra; Mr.)	
Davis, Unit Manager; and Mr.)	
Rodriguez,)	
)	
Defendants.)	
)	

ORDER

Anthony D. Williams (“Plaintiff”), proceeding pro se and in forma pauperis, brings this action alleging a violation of his constitutional rights while at FCI-Bennettsville. This matter comes before the court on the following motions filed by Plaintiff: (1) Motion for Immediate Assistance from the Systemic Abuse of the United States Government Agency/Employees [ECF No. 71]; (2) Motion for Permission to File

Default Motion and/or Motion for Summary Judgment [ECF No. 72]; and (3) Motion for Default Judgment as to All Defendants [ECF No. 78]. All pretrial proceedings in this case were referred to the undersigned pursuant to the provisions of 28 U.S.C. § 636(b) and Local Civ. Rule 73.02(B)(2)(e) (D.S.C.).

I. Motion related to injunctive relief [ECF No. 71]

In his motion for injunctive relief, Plaintiff alleges Defendants have failed to comply with his doctor's recommendation regarding his diet and he complains that his account is being charged for his three civil suits, court restitution for his criminal case, and for sick calls, which leaves him unable to purchase his own food. [ECF No. 71]. Defendants filed a response [ECF No. 79, incorporating No. 76].

Defendants argue Plaintiff is not entitled to relief and cannot show a likelihood of success on the merits of his claim that he should receive a medical special diet. Defendants provide a copy of Plaintiff's medical records, together with a declaration of Dr. Stephen Hoey, the staff physician at FCI-Williamsburg, and Plaintiff's treating physician. [ECF No. 76-1]. Dr. Hoey testifies that Plaintiff was not ordered to be on a medical special diet, as he claims. *Id.* Dr. Hoey notes that Plaintiff's diet was reviewed by a BOP dietitian, who recommended that his snacks be discontinued based upon an elevated hemoglobin A1c of 6.3, obesity, and advised there was no clinical evidence of malnutrition. *Id.* The on-site BOP physician reviewed and agreed with this recommendation and issued the appropriate order. *Id.* Dr. Hoey noted Plaintiff voiced concerns about a bland diet and further noted that he could self-select around the food selections offered by food service to suit his tastes, specifically noting his commissary

record revealed that his purchases contradicted his request for a bland diet in that he purchased hot and spicy ramen, jalapeño salsa, and habanero cheese. *Id.*

Dr. Hoey further noted that on May 17, 2017, the physician, nurse practitioner, and health services administrator met with Plaintiff for 25 minutes to address his complaints of abdominal pain, his diet, lab work, and previous endoscopy. *Id.* Dr. Hoey noted that Plaintiff did not appear to be willing to follow any recommendations made by the healthcare providers, was argumentative with staff throughout the encounter, and refused any further examination. *Id.*

The court finds the undisputed medical records reveal that BOP medical staff is treating Plaintiff for his medical condition and that Plaintiff disagrees with the course of his medical treatment. However, mere disagreement between an inmate and a physician over the appropriate form of treatment is not an actionable constitutional claim. *Wright v. Collins*, 766 F2d 841, 849 (4th Cir. 1985). Questions of medical judgment are not subject to judicial review. *Russell v. Sheffer*, 528 F.2d 318 (4th Cir. 1975). The Supreme Court stated that the Eighth Amendment imposes a duty on prison officials to provide inmates with “adequate food,” not the food of their choosing. *See Farmer v. Brennan*, 511 U.S. 825 at 832 (1994).

The evidence before the court demonstrates Plaintiff is being offered a medically and nutritionally appropriate diet, and he cannot show a likelihood of success on the merits. Additionally, he has not shown or claimed, beyond conclusory allegations, any likelihood of irreparable harm. As reflected in his medical records, the diet that is being offered is nutritionally appropriate to his medical condition, and he has not offered any

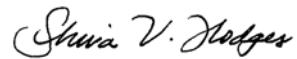
evidence, beyond his own unsupported statements, to contradict that medical opinion. Similarly, he has not made a showing that a balance of equities tips in his favor. And finally, an injunction would not be in the public interest. Questions of medical judgment are not subject to judicial review, and courts are reluctant to second-guess the propriety or adequacy of a particular course of treatment. *See Russell*, 528 F.2d 318.

Therefore, the court denies Plaintiff's motion for injunctive relief concerning his diet [ECF No. 71].

II. Motions for default judgment

Plaintiff filed a request for permission to file a motion for default judgment and/or summary judgment on May 22, 2017 [ECF No. 72], and a motion for default judgment on May 30, 2017 [ECF No. 78]. Plaintiff's motion for summary judgment provides no recitation of undisputed facts, but simply states that Plaintiff wants to file for summary judgment. To the extent Plaintiff intended his motion to be considered a motion for summary judgment, the undersigned denies it because he has failed to demonstrate that no genuine dispute of material facts exists in this matter such that he is entitled to judgment as a matter of law. Further, Defendants timely filed their answers [ECF Nos. 75, 76, and 81], therefore, the undersigned denies Plaintiff's motions for default judgment [ECF Nos. 72 and 78].

IT IS SO ORDERED.



July 18, 2017
Columbia, South Carolina

Shiva V. Hodges
United States Magistrate Judge