

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

Wilton Q. Greene, III,)	Civil Action No. 1:18-1731-BHH
)	
Plaintiff,)	
)	
v.)	
)	<u>OPINION AND ORDER</u>
)	
Cecil Hawkins, M. Toth, and J. Glenn,)	
)	
Defendants.)	
_____)	

Plaintiff Wilton Q. Green, III (“Plaintiff”), proceeding *pro se*, brought this action pursuant to Title 42, United States Code, Section 1983. (ECF Nos. 1, 13.) In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B), D.S.C., this matter was referred to United States Magistrate Judge Shiva V. Hodges for pre-trial handling and a Report and Recommendation (“Report”).

On December 18, 2018, Defendants filed a motion for summary judgment. (ECF No. 42.)¹ Since Plaintiff is *pro se* in this matter, the Court entered an order pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975) on December 18, 2018, advising Plaintiff of the importance of a dispositive motion and of the need for him to file an adequate response. (ECF No. 45.) Plaintiff filed a response in opposition on February 15, 2019 (ECF No. 56), and Defendants filed replies on February 18, 2019 (ECF No. 57) and February 19, 2019 (ECF No. 58) respectively. On May 2, 2019, Magistrate Judge Hodges issued a Report recommending that Defendants’ motion for summary judgment be granted for Plaintiff’s failure to exhaust his administrative remedies. (ECF No. 59.) The Magistrate

¹The motion for summary judgment (ECF No. 42) was originally filed by Defendants Toth and Glenn, but Defendant Hawkins’ motion for joinder (ECF No. 47) was granted on December 26, 2018. (ECF No. 48)

Judge advised Plaintiff of the procedures and requirements for filing objections to the Report and the serious consequences if he failed to do so. (ECF No. 59 at 7.) Plaintiff filed no objections and the time for doing so expired on May 20, 2019.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. *See Mathews v. Weber*, 423 U.S. 261 (1976). The Court is charged with making a *de novo* determination of any portion of the Report and Recommendation of the Magistrate Judge to which a specific objection is made. The Court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b). The Court reviews the Report and Recommendation only for clear error in the absence of an objection. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in 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”) (citation omitted).

After reviewing the record, the Report, and the applicable law, the Court finds no clear error. Accordingly, the Court adopts and incorporates the Report and Recommendation (ECF No. 59) by reference into this Order, Defendants’ motion for summary judgment (ECF No. 42) is GRANTED, and this case dismissed.

IT IS SO ORDERED.

/s/ Bruce Howe Hendricks
United States District Judge

Greenville, South Carolina
May 30, 2019

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified that any right to appeal this Order is governed by Rules 3 and 4 of the Federal Rules of Appellate Procedure.