

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

Joshua Lee Phillips, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 Sergeant Miles Perkins; Sergeant Fleshman; )  
 Associate Warden Cannings; Captain )  
 Hingleton; Lieutenant Canpisi; Lieutenant )  
 Jason Watkins; Correctional Officer Daniel )  
 Swisher; Correctional Officer M. Duffy; )  
 Correctional Officer Crim; Correctional )  
 Officer A. Bell; Correctional Officer )  
 Bridgette; Sergeant J. Johnson; Correctional )  
 Officer Johnson; Sergeant Taylor; )  
 Compliance Officer C. Rossell; Mental )  
 Health Professional Henley; Nurse )  
 Practitioner May; Warden Kenneth Nelson; )  
 Nurse Jane Doe, )  
 )  
 Defendants. )  
 )

Case No.: 1:23-cv-00136-JD-SVH

**OPINION & ORDER**

This matter is before the Court with a Report and Recommendation (“Report”) of United States Magistrate Shiva V. Hodges, made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02(B)(2) of the District of South Carolina.<sup>1</sup> (DE 33.) Plaintiff Joshua Lee Phillips (“Phillips” or “Plaintiff”), proceeding *pro se* and *in forma pauperis*, filed this complaint against the above named defendants<sup>2</sup> (“collectively “Defendants”) related to his incarceration at Broad River Correctional Institution while in the custody of the South Carolina Department of

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<sup>1</sup> The recommendation has no presumptive weight, and the responsibility for making a final determination remains with the United States District Court. See Mathews v. Weber, 423 U.S. 261, 270-71 (1976). The court is charged with making a de novo determination of those portions of the Report and Recommendation to which 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 with instructions. 28 U.S.C. § 636(b)(1).

<sup>2</sup> Defendant Nurse Jane Doe has not been served or appeared in this action.

Corrections (“SCDC”). On April 24, 2023, Plaintiff filed a Motion to Dismiss seeking to voluntarily dismiss this case. (DE 31.) Defendants filed a Response on April 25, 2023. (DE 32.)

The Report was issued on May 30, 2023, recommending this case be dismissed without prejudice, but with the condition that if Plaintiff refiles the same claims against some or all of Defendants, subject to and acknowledging the condition set forth in Rule 41(d), Fed. R. Civ. P. (DE 33.) Plaintiff has not filed an objection to the Report. In the absence of objections to the Report and Recommendation, this Court is not required to give any explanation for adopting the recommendation. See Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983). The 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).

Therefore, after a thorough review of the Report and Recommendation and the record in this case, the Court finds that there is no clear error on the face of the record, and therefore, adopts the Report and Recommendation and incorporates it herein by reference.

It is, therefore, **ORDERED** that this case is dismissed without prejudice.

**IT IS SO ORDERED.**

A handwritten signature in black ink that reads "Joseph Dawson, III". The signature is written in a cursive style with a large, looped initial "J".

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Joseph Dawson, III  
United States District Judge

Florence, South Carolina  
July 31, 2023

#### **NOTICE OF RIGHT TO APPEAL**

Plaintiff is hereby notified that he has the right to appeal this order within thirty (30) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.