

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION**

Craig Gathers, # 341480,)	
)	
Plaintiff,)	
v.)	Civil Action No.: 2:12-cv-02206-JMC
)	
Sgt. Clarey; Ms. Wineglass;)	
Michael A. Schwartz; Ms. Jane Doe;)	
Officer Dryer; Officer Willer;)	
“independently and in their criteria,”)	ORDER
)	
Defendants.)	
_____)	

This matter is before the court for review of the Magistrate Judge's Report and Recommendation (“Report”) [Dkt. No. 28], filed on August 1, 2013, recommending that Defendants’ Motion for Summary Judgment [Dkt. No. 19] be granted as to Plaintiff’s federal claims. It is also recommended that the court decline to exercise supplemental jurisdiction over the state law claims. Furthermore, it is recommended that Defendant Officer Willer be dismissed from this action pursuant to Federal Rules of Civil Procedure 12(b)(2), 12(b)(4), and 12(b)(5).

Plaintiff brought this action seeking relief pursuant to Title 42 U.S.C. § 1983. The Report sets forth in detail the relevant facts and legal standards on this matter which the incorporates herein without a recitation.

The Magistrate Judge's Report is made in accordance with 28 U.S.C. § 636(b)(1) 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 this 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

to which specific objections are made, and the court may accept, reject, or modify, in whole or in part, the Magistrate Judge's recommendation or recommit the matter with instructions. *See* 28 U.S.C. § 636(b)(1).

Plaintiff was advised of his right to file objections to the Report [Dkt. No. 28 at 25]. However, Plaintiff filed no objections to the Report.

In the absence of objections to the Magistrate Judge's Report, this court is not required to provide an explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Rather, "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.'" *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). Furthermore, failure to file specific written objections to the Report results in a party's waiver of the right to appeal from the judgment of the district court based upon such recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984).

Therefore, after a thorough and careful review of the Report and the record in this case, the court finds the Report provides an accurate summary of the facts and law in the instant case and the record in this case. The court **ACCEPTS** the Report and Recommendation [Dkt. No. 28]. For the reasons articulated by the Magistrate Judge, it is therefore **ORDERED** that Defendants' Motion for Summary Judgment [Dkt. No. 19] is **GRANTED** as to Plaintiff's federal claims. The court declines to exercise supplemental jurisdiction over the state law claims. Furthermore, it is **ORDERED** that

Defendant Officer Willer is **DISMISSED** from the above-listed action pursuant to Federal Rules of Civil Procedure 12(b)(2), 12(b)(4), and 12(b)(5).

IT IS SO ORDERED.

A handwritten signature in black ink that reads "J. Michelle Childs". The signature is written in a cursive style with a large initial "J" and a decorative flourish at the end.

United States District Judge

August 20, 2013
Greenville, South Carolina