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

Eugene Paul Harrison, Sr., a/k/a Eugene P. Harrison,

Plaintiff,

v.

Crystle Godbolt, McDonald's Asst. Manager; Jose Hernandez, McDonald's Owner,

Defendants.

No. 2:13-cv-2690-RMG

ORDER

This matter is before the Court on the Report and Recommendation ("R&R") of the Magistrate Judge recommending that this case be dismissed without prejudice pursuant to 28 U.S.C. § 1915. (Dkt. No. 16). For the reasons set forth below, the Court agrees with and adopts the R&R as the order of the Court.

Background

Plaintiff, proceeding *pro se* and *in forma pauperis*, brings this action against Defendants alleging they violated his rights to freedom of speech and religion when they required him to leave a McDonald's restaurant for holding a prayer meeting. (Dkt. No. 1). Pursuant to 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2)(e) DSC, this case was assigned to a Magistrate Judge for all pretrial proceedings. Under established local procedure in this judicial district, the Magistrate Judge conducted a careful review of the complaint pursuant to the provisions of 28 U.S.C. § 1915 and in light of the following precedents: *Neitzke v. Williams*, 490 U.S. 319 (1980); *Estelle v. Gamble*, 429 U.S. 97 (1976); *Haines v. Kerner*, 404 U.S. 519 (1972); and *Gordon v. Leeke*, 574 F.2d 1147 (4th Cir. 1978). The Magistrate Judge then issued the present R&R

recommending the Court dismiss this action without prejudice and without issuance and service of process. (Dkt. No. 16). Plaintiff failed to file timely objections to the R&R.

Legal Standard

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility for making a final determination remains with this Court. *Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). This Court is charged with making a de novo determination of those portions of the R&R to which specific objection is made. Additionally, the Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). This Court may also "receive further evidence or recommit the matter to the magistrate judge with instructions." *Id.*

Discussion

After review of the record and the R&R, the Court finds that the Magistrate Judge applied sound legal principles to the facts of this case and therefore agrees with and adopts the R&R as the order of the court. (Dkt. No. 16). The Magistrate Judge thoroughly addressed and explained the legal infirmities in Plaintiff's complaint and correctly recommended that this case be dismissed without prejudice under 28 U.S.C. § 1915 because it fails to state a claim upon which relief may be granted. 28 U.S.C. § 1915(e)(2)(B)(ii).

Conclusion

As set forth above, the Court agrees with and adopts the R&R as the order of the Court. (Dkt. No. 16). Accordingly, this action is dismissed without prejudice and without issuance and service of process.

AND IT IS SO ORDERED.

Richard Mark Gergel
United States District Court Judge

November 25, 2013
Charleston, South Carolina