

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

Harry D. Kitchen,
Plaintiff,
vs.
Joseph P. Riley, Mayor of Charleston, SC;
H. M. Kind, Sgt Charleston Police Dept.;
Simone Douglas, Ofc. Charleston Police
Dept.; FNU Alltine, Sgt. Charleston Police
Dept.; Time Strickland, Owner Market
Street Sweets; Alesia Rico Flores, Judge
of the Livability Court, Charleston, SC;
Sgt. George Hildebidle, Charleston Police
Dept.; Officer Sandra Proude, Charleston
Police Dept.; David Corney, Gen. Mgr.
Market St. Sweets; Elizabeth Dietrich,
Defendants.

No. 2:14-cv-00569

ORDER

This matter comes before the Court on the Report and Recommendation (R & R) of the Magistrate Judge, (Dkt. No. 106), recommending that Defendants Corney and Strickland’s motion to dismiss, (Dkt. No. 76) be granted and Defendant Dietrich’s motion to dismiss, (Dkt. No. 79), be granted. Plaintiff has not filed objections to the R & R. For the reasons stated below, the Court the adopts the R & R and dismisses these three defendants.

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. Mathews v. Weber, 423 U.S. 261, 270–71 (1976). The Court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate.” 28

U.S.C. § 636(b)(1). This Court is charged with making a de novo determination of those portions of the R & R or specified proposed findings or recommendations to which objection is made. *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting 28 U.S.C. § 636(b)(1)); *accord* Fed. R. Civ. P. 72(b). Here, however, because no objection has been made, this Court “must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” *Id.* (quoting Fed. R. Civ. P 72 advisory committee note). Moreover, in the absence of specific objections to the R & R, the Court need not give any explanation for adopting the Magistrate Judge’s analysis and recommendation. *See Camby v. Davis*, 718 F.2d 198, 199-200 (4th Cir. 1983).

The Court has carefully reviewed the pleadings, the parties’ briefing, and the R & R, and concludes that the Magistrate Judge correctly applied the relevant law to the operative facts in this matter. The Court agrees that (1) Plaintiff has failed to allege that these three defendants acted under state law and, therefore, has failed to state a claim under Section 1983; (2) Plaintiff has failed to allege that any of these three defendants are motivated by a specific class-based invidiously discriminatory animus and, therefore, has failed to state a claim under Section 1985, and (3) the criminal statutes cited by Plaintiff in his Second Amended Complaint do not allow for civil causes of action.

Therefore, the Court ADOPTS the R&R, (Dkt. No. 106), as an Order of this Court. Accordingly, Defendants Corney, Strickland, and Dietrich are DISMISSED from this action.

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**AND IT IS SO ORDERED.**



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Richard Mark Gergel  
United States District Judge

August 19, 2015  
Charleston, South Carolina