

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

David Lee Garner,

PLAINTIFF,

v.

John Cohen, FBI Headquarters Director, et al.,

DEFENDANTS.

Case No. 2:16-cv-00561-TLW

ORDER

Plaintiff David Lee Garner, proceeding *pro se* and *in forma pauperis*, filed this action against current and former federal officials alleging various violations of his constitutional rights. ECF No. 1. The matter now comes before the Court for review of a Report and Recommendation (R&R) filed on September 1, 2016, by Magistrate Judge Mary Gordon Baker, to whom this case was assigned pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02(B)(2), DSC. ECF No. 24. In the R&R, the magistrate judge recommends summarily dismissing Plaintiff's complaint without prejudice and without issuance and service of process. *Id.* Plaintiff filed objections to the R&R on September 23, 2016, and December 28, 2016. ECF Nos. 27, 29. This matter is now ripe for decision.

In reviewing the R&R, the Court applies the following standard:

The magistrate judge makes only a recommendation to the Court, to which any party may file written objections The Court is not bound by the recommendation of the magistrate judge but, instead, retains responsibility for the final determination. The Court is required to make a de novo determination of those portions of the report or specified findings or recommendation as to which an objection is made. However, the Court is not required to review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the report and recommendation to which no objections are addressed. While the level of scrutiny entailed by the Court's review of the Report thus depends on whether or not objections have been filed, in either case the Court is free, after review, to accept, reject, or modify any of the magistrate judge's findings or recommendations.

Wallace v. Hous. Auth. of City of Columbia, 791 F. Supp. 137, 138 (D.S.C. 1992) (citations omitted).

In light of the standard set forth in *Wallace*, the Court has reviewed, *de novo*, the R&R and the objections. After careful review of the R&R and the objections, for the reasons stated by the magistrate judge, the R&R is **ACCEPTED**. Plaintiff's objections are **OVERRULED**. Plaintiff's complaint is hereby **DISMISSED** without prejudice and without issuance and service of process.

IT IS SO ORDERED.

s/Terry L. Wooten

Terry L. Wooten
Chief United States District Judge

June 19, 2017
Columbia, South Carolina