

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

Horace Dwayne Allen,)
Plaintiff,) C/A No. 2:18-0248-MBS-MGB
vs.)
Toya Shantel Allen,)
Defendant.)

)

ORDER AND OPINION

Plaintiff Horace Dwayne Allen, proceeding pro se, filed a complaint pursuant to the court's diversity jurisdiction on December 27, 2017. Plaintiff also filed a motion for leave to proceed in forma pauperis (IFP) on December 27, 2017. In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Mary Gordon Baker.

The Magistrate Judge reviewed Plaintiff's IFP motion and issued a Report and Recommendation on March 13, 2018, in which she noted that Plaintiff is currently employed with an annual salary of \$41,298.00. The Magistrate Judge further observed that Plaintiff states he has \$500.00 in his bank account remaining after bills are paid, a 401K account, and joint ownership of automobiles and a residence. The Magistrate Judge determined that Plaintiff possesses the means to pay the filing fee. Accordingly, the Magistrate Judge recommended that the IFP motion be denied. Plaintiff filed no objections to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). This 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.* 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 & Ace. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

The court has thoroughly reviewed the record. The court concurs in the Report and Recommendation and incorporates it herein by reference. Plaintiff motion for IFP (ECF No. 3) is **denied**. Plaintiff is directed to pay the requisite filing fee within thirty days of the date of entry of this order. Plaintiff is cautioned that his failure to comply with the terms of this order will subject his complaint to being dismissed, without prejudice.

IT IS SO ORDERED.

/s/ Margaret Seymour
Senior United States District Judge

Columbia, South Carolina

April 10, 2018