

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

Darrell L. Goss, #305517,)
)
Plaintiff,)
)
v.)
)
Bryan P. Stirling, et al.,)
)
Defendants.)
_____)

Civil Action No. 2:18-cv-326-BHH

ORDER

This matter is before the Court upon Plaintiff’s pro se action filed pursuant to 42 U.S.C. § 1983. Defendant Cindy Beer (Postmaster of the U.S. Post Office in Fairfax, South Carolina) filed a motion to dismiss for failure to state a claim and lack of jurisdiction, and in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02(B)(2)(d) (D.S.C.), the matter was referred to a United States Magistrate Judge for preliminary determinations.

On November 29, 2018, Magistrate Judge Mary Gordon Baker issued a report and recommendation (“Report”) outlining the issues and recommending that the Court grant the unopposed motion to dismiss filed by Defendant Beer. Attached to the Report was a notice advising Plaintiff of his right to file written objections to the Report within fourteen days of being served with a copy. To date, no objections have been filed.

The Magistrate Judge makes only a recommendation to the 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 (1976). The Court is charged with making a de novo determination only 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 recommendation of the Magistrate Judge, or recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of specific objections, the Court reviews the matter only for clear error. See *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “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.’”) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

Here, because no objections have been filed, the Court has reviewed the record, the applicable law, and the findings and recommendations of the Magistrate Judge for clear error. After review, the Court finds no clear error and agrees with the Magistrate Judge’s Report. Therefore, the Court adopts and incorporates the Magistrate Judge’s Report (ECF No. 107) and grants Defendant Beer’s motion to dismiss (ECF No. 81) and dismisses Defendant Beer as a party from this action. The Court dismisses with prejudice Plaintiff’s First Amendment claim against Defendant Beer.

IT IS SO ORDERED.

/s/Bruce H. Hendricks
The Honorable Bruce Howe Hendricks
United States District Judge

January 3, 2019
Charleston, South Carolina