

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

David Mills Hancock, #303839,)	Case No. 2:18-cv-00974-DCC-MGB
)	
Plaintiff,)	
)	
v.)	ORDER
)	
Shelly Suttles, et al,)	
)	
Defendants.)	
_____)	

This matter is before the Court on Plaintiff’s Complaint alleging violations of his civil rights pursuant to 42 U.S.C. § 1983. ECF No. 1. In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2), (D.S.C.), this matter was referred to United States Magistrate Judge Mary Gordon Baker for pre-trial proceedings and a Report and Recommendation (“Report”). By Order dated April 27, 2018, service was authorized on the Defendants; on June 6, 2018, the summons was returned unexecuted for Defendant D. Bussy. ECF Nos. 13, 18. The Magistrate Judge gave Plaintiff two opportunities to provide additional information necessary to accomplish service; however, Plaintiff failed to respond to the Orders. See ECF No. 20, 25. On October 5, 2018, the Magistrate Judge issued a Report recommending that Defendant D. Bussy be dismissed for failure to prosecute pursuant to Federal Rule of Civil Procedure 4(m). ECF No. 30. The Magistrate Judge advised Plaintiff of the procedures and requirements for filing

objections to the Report and the serious consequences if he failed to do so. Plaintiff has filed no objections, and the time to do so has passed.¹

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. See *Mathews v. Weber*, 423 U.S. 261 (1976). The Court is charged with making a *de novo* determination of any portion of the Report of the Magistrate Judge to which a specific objection is made. The Court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. See 28 U.S.C. § 636(b). The Court will review the Report only for clear error in the absence of an objection. See *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of 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.” (citation omitted)).

After considering the record in this case, the applicable law, and the Report of the Magistrate Judge, the Court finds no clear error and agrees with the Report’s recommendation. Accordingly, the Court adopts the Report by reference in this Order. Defendant D. Bussy is dismissed without prejudice pursuant to Federal Rule of Civil Procedure 4(m).

¹ The Court notes that several pieces of mail sent to Plaintiff, including the Report, have been returned as undeliverable, see, e.g., ECF Nos. 29, 32, 42; Plaintiff has been told that it is his responsibility to update his address with the Court, ECF No. 6.

IT IS SO ORDERED.

s/ Donald C. Coggins, Jr.
United States District Judge

December 13, 2018
Spartanburg, South Carolina

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.