

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

Tyrone Roberson, #191327,)	Civil Action No. 2:20-2708
)	
Plaintiff,)	
)	
v.)	ORDER AND OPINION
)	
South Carolina Department of Corrections,)	
)	
Defendant.)	
_____)	

Before the Court is the Magistrate Judge’s Report and Recommendation (“R & R”) recommending that the action be dismissed without prejudice. (Dkt. No. 4.) No objections were made to the R & R.

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, e.g., 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 judge.” 28 U.S.C. § 636(b)(1)(C). Where the plaintiff objects to the R & R, the Court “makes a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” *Id.* In the absence of objections, the Court reviews the R & R to “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Fed. R. Civ. P. 72 advisory committee’s note; *see also Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983) (“In the absence of objection . . . we do not believe that it requires any explanation.”).

Plaintiff, a state prisoner proceeding *pro se*, submitted a letter to the District Court regarding a filing concern in a separate administrative action before the South Carolina

Administrative Law Court (Docket No. 19-ALJ-04-0651-AP). This letter appears to be a notice addressed to the South Carolina Commission on Judicial Conduct and does not resemble in any way a pleading in a federal action. In the letter, Plaintiff requests that a “responsible authority” assist him with filing his Notice of Appeal with Certificate of Service by Mail. (Dkt. No. 1.) As the Magistrate Judge ably noted, this letter appears to have been filed as a complaint in the District Court in error and, therefore, the action should be dismissed to allow Plaintiff to resubmit any letter request to the appropriate entity. The Court can find no clear error on the face of this recommendation.

For the foregoing reasons, the Court **ADOPTS** the R & R (Dkt. No. 4) as the order of the Court and **DISMISSES WITHOUT PREJUDICE** the action in its entirety.

AND IT IS SO ORDERED.

s/ Richard Mark Gergel
Richard Mark Gergel
United States District Judge

December 1, 2020
Charleston, South Carolina