

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

|   |   |                                   |
|---|---|-----------------------------------|
| Falipae Montez Henderson,    #239810,       | ) |                                   |
|   | ) |                                   |
| Plaintiff,                                  | ) |                                   |
|   | ) |                                   |
| vs.   | ) | Civil Action No.:3:06-831-TLW-JRM |
|   | ) |                                   |
| Ann Stewart, Sgt., of the Greenwood County) | ) |                                   |
| Detention Center (GCDC),                    | ) |                                   |
|   | ) |                                   |
| Defendants.                                 | ) |                                   |
| _____                                       | ) |                                   |

**ORDER**

Plaintiff, Falipae Montez Henderson (“plaintiff”) brought this civil action, *pro se*, under 42 U.S.C. § 1983, on March 28, 2006. (Doc. #1).

This matter now comes before this Court for review of the Report and Recommendations (“the Report”) filed by United States Magistrate Judge Joseph R. McCrorey, to whom this case had previously been assigned. (Doc. #5). In the Report, Magistrate Judge McCrorey recommends that the District Court dismiss the action without prejudice and without issuance and service of process. (Doc. #5). The plaintiff filed a letter in response which the Court has considered as objections to the Report. However, in the letter the plaintiff appears to concede that the injury was *de minimis*. (Doc. #6).

In conducting this review, 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. Housing Auth. of the 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 the Report and the objections. After careful review of the Report and objections thereto, the Court **ACCEPTS** the Report. (Doc. #5). Therefore, for the reasons articulated by the Magistrate Judge, the plaintiff's complaint is **DISMISSED** *without prejudice* and without issuance and service of process. (Doc. #1).

**IT IS SO ORDERED.**

s/Terry L. Wooten

Terry L. Wooten  
United States District Judge

September 4, 2008

Florence, South Carolina