

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION**

Stephanie Harvey,)	C/A No. 3:09-1836-CMC-PJG
)	
Plaintiff,)	
)	ORDER DENYING
v.)	MOTION TO DISMISS
)	
Capital Children's Dental Center and Palmetto Smiles,)	
)	
Defendants.)	
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Through this action Plaintiff, proceeding *pro se*, seeks compensatory and punitive damages related to her claim that Defendants discriminated against her on the basis of her race. Plaintiff, a former employee of Defendants, was terminated in May 2008 after a dispute relating to scheduling and Plaintiff's decision to attend college. Dkt. No. 1 at 2. The matter is currently before the court on Defendants' motion to dismiss for insufficient service of process, pursuant to Fed. R. Civ. P. 12(b)(4)-(5). Dkt. No. 10.

Consistent with the court's normal practice, pretrial proceedings were referred to a magistrate judge. *See* 28 U.S.C. § 636(b)(1)(B) and Local Rules 73.02(B)(2)(a) and 83.VII.02, *et seq.*, D.S.C. Magistrate Judge Paige J. Gossett filed her Report and Recommendation ("Report") on March 4, 2010. The Report recommends that the court extend, by thirty days, the deadline for Plaintiff to effect proper service of the Complaint upon Defendants. The Magistrate Judge reasoned that because of Plaintiff's efforts to effect service of process and her good faith belief that she had done so, additional time to serve process is warranted. Dkt. No. 29 at 6. No objections have been filed, and the deadline for doing so was March 22, 2010.

The magistrate judge makes only a recommendation to this court. The recommendation has

no presumptive weight, and the responsibility for making 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 of those portions of the Report to which specific objection is 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 an objection, the court reviews the Report 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”) (citation omitted).

After reviewing the record, the applicable law, and the findings and recommendations of the Magistrate Judge, the court finds no clear error. Accordingly, the Report is adopted and incorporated by reference. For the reasons set forth therein, the court **denies** Defendants’ motion to dismiss for insufficient service of process and **extends** Plaintiff’s deadline to effect proper service of process upon Defendants by thirty days from the entry date of this order.

IT IS SO ORDERED.

s/ Cameron McGowan Currie
CAMERON MCGOWAN CURRIE
UNITED STATES DISTRICT JUDGE

Columbia, South Carolina
March 29, 2010