

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

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|---|---|---------------------------|
| Raqib Abdul Al-Amin, # 264465, |) | C/A NO. 3:10-3237-CMC-JRM |
| |) | |
| Plaintiff, |) | |
| |) | OPINION and ORDER |
| v. |) | |
| |) | |
| Joe Philip Smith, individual official |) | |
| capacity; Columbia Police Dept., official |) | |
| capacity, |) | |
| |) | |
| Defendants. |) | |
| _____ |) | |

This matter is before the court on Plaintiff’s *pro se* complaint, filed in this court pursuant to 42 U.S.C. § 1983.

In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02 (B)(2)(d), DSC, this matter was referred to United States Magistrate Judge Paige J. Gossett for pre-trial proceedings and a Report and Recommendation (“Report”). On January 13, 2011, the Magistrate Judge issued a Report recommending that the complaint be dismissed without prejudice and without issuance and service of process. 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 filed objections to the Report on January 25, 2011.

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).

After conducting a *de novo* review as to objections made, and considering the record, the applicable law, the Report and Recommendation of the Magistrate Judge, and Plaintiff's objections, the court agrees with the conclusions of the Magistrate Judge. Accordingly, the court adopts and incorporates the Report and Recommendation by reference in this Order.

Plaintiff argues that his due process rights were violated when Defendant Smith "notarized his own signature to [sic] affidavit taken." Obj. at 2 (Dkt. #13, filed Jan. 25, 2011). Plaintiff goes on to contend that he has a right of action under § 1983 and that he should be allowed to pursue this matter. However, the law cited by the Magistrate Judge forecloses Plaintiff's argument.

This action is dismissed without prejudice and without issuance and service of process.

IT IS SO ORDERED.

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

Columbia, South Carolina
January 27, 2011