

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

Tramaine S. Cypress,)	C/A NO. 3:11-2910-CMC-JRM
)	
Plaintiff,)	
)	OPINION and ORDER
v.)	
)	
South Carolina Department of Corrections,)	
)	
Defendant.)	
_____)	

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 Joseph R. McCrorey for pre-trial proceedings and a Report and Recommendation (“Report”). On November 7, 2011, the Magistrate Judge issued a Report recommending that this matter 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 November 15, 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 considering the record, the applicable law, the Report and Recommendation of the Magistrate Judge, and Plaintiff's objections. the court agrees with the Report and its conclusions. Therefore, the court adopts and incorporates the Report by reference in this Order.

Plaintiff contends that he does not understand how the South Carolina Department of Corrections (SCDC) is immune from suit, and that "I would like to proceed [] by filing against the State of South Carolina." Obj. at 1 (ECF No. 10, filed Nov. 15, 2011). However, an attempt to file suit against the State of South Carolina would result in the same conclusion: The State and its agencies are immune from suit in federal court under the Eleventh Amendment.

This matter 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
November 22, 2011