

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

Eric Davis, #304804,) Civil Action No.: 3:12-593-MGL
)
 Plaintiff,)
)
 vs.) **ORDER AND OPINION**
)
Victoria Clayton; Amy Smith; and)
Roman McFadden,)
)
 Defendants.)
)

Plaintiff Eric Davis is an inmate in custody at the Evans Correctional Institution in Bennettsville, South Carolina. On March 7, 2012, Plaintiff proceeding *pro se*, filed this civil rights action pursuant to 42 U.S.C. § 1983. (ECF No. 1.) In accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 D.S.C., this matter was referred to United States Magistrate Judge Joseph R. McCrorey for pretrial handling.

Plaintiff filed a motion to voluntarily dismiss his complaint without prejudice on November 16, 2012. (ECF No. 27.) The Defendants, in their response, consented to the voluntary dismissal of the case as requested by the Plaintiff. (ECF No. 33.) Thus, Magistrate Judge McCrorey recommended that Plaintiff's motion be granted and this action be dismissed without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2). (ECF No. 34.)

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this Court. *See 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). The Court may also receive further evidence or recommit the matter to the Magistrate

Judge with instructions. *Id.* The Court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objections are made.

After a careful review of the record, the applicable law, and the Report and Recommendation, the Court finds the Magistrate Judge's recommendation to be proper. Accordingly, the Report and Recommendation is incorporated herein by reference and this Court grants Plaintiff's Motion for a voluntary dismissal (ECF No. 27). This action is hereby DISMISSED without prejudice.

IT IS SO ORDERED.

s/Mary G. Lewis
United States District Judge

Spartanburg, South Carolina
February 1, 2013