

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. *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).

DISCUSSION

As noted above, Plaintiff does not challenge dismissal of his claims against the Social Security Administration. In light of Plaintiff's consent and for the reasons stated in the Report, the court finds that this matter should be dismissed as to the Social Security Administration.²

Plaintiff argues that his claims against Dr. Motycka are distinct from his claims against the Social Security Administration and should be allowed to proceed. He also indicates that he is willing to amend his complaint if necessary to cure any deficiencies as to these claims.

The Report does not address Plaintiff's claims against Dr. Motycka to the extent they may be distinct from any claim for disability benefits. On its face, the complaint asserts three distinct state law causes of action against Dr. Motycka, at least some of which allegedly caused injury distinct from the (initial) denial of disability benefits. The complaint further suggests that Dr. Motycka's actions were taken as an agent of the Social Security Administration, and references federal laws prohibiting racial discrimination, though no express federal claim is asserted.

The court finds the allegations against Dr. Motycka sufficiently distinct from any claim for

² Plaintiff's claims against the Social Security Administration would, in any event, be moot to the extent he challenges the denial of benefits given that he has now received a fully favorable decision.

denial of benefits that they require separate analysis. The court, therefore, recommitts the matter to the Magistrate Judge for further proceedings, including but not limited to a preliminary screening to determine whether this court has subject matter jurisdiction over the claims and whether they satisfy the standards applicable to filings under 28 U.S.C. § 1915.

CONCLUSION

For the reasons set forth above, the claims against the Social Security Administration are dismissed without prejudice and this matter is recommitted to the Magistrate Judge for further proceedings as to the claims against Defendant Thomas J. Motycka, M.D. The court expresses no opinion as to whether those claims are viable or, if viable, whether they may proceed in this court.

IT IS SO ORDERED.

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

Columbia, South Carolina
July 25, 2012