

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

Ciera Howard; Tina Sexton; and)
Misty McNabb,)
)
Plaintiffs,)
)
v.)
)
Unknown Driver;)
John Doe;)
South Carolina Department of)
Mental Health;)
South Carolina Department of Corrections,)
)
Defendants.)
_____)

Civil Action No. 3:15-cv-02096-JMC

ORDER

Plaintiffs brought this action seeking relief pursuant to 42 U.S.C. § 1983. (ECF Nos. 1, 1.1) This matter is before the court for review of the Magistrate Judge's Report and Recommendation ("Report") (ECF No. 19), filed on August 28, 2015, recommending that:

- Plaintiffs' motion to voluntarily dismiss its claims against Defendants South Carolina Department of Mental Health ("SCDMH") and South Carolina Department of Corrections ("SCDC") (ECF No. 14) be granted;
- Plaintiffs' 42 U.S.C. § 1983 claims against Defendants SCDMH and SCDC be dismissed with prejudice; and
- Plaintiffs' motion to remand their claims against Jarvis Omar Hayes—the defendant formerly identified as Unknown Driver John Doe—(ECF No. 14) be granted under 28 U.S.C. § 1367(c).

The Report sets forth in detail the relevant facts and legal standards on this matter, and the court incorporates the Magistrate Judge's recommendation herein without a recitation.

The Magistrate Judge’s Report is made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 for the District of South Carolina. The Magistrate Judge makes only a recommendation to this court, and 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 is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objections are made, and the court may accept, reject, or modify, in whole or in part, the Magistrate Judge’s recommendation or recommit the matter with instructions. *See* 28 U.S.C. § 636(b)(1).

Petitioner was advised of his right to file an objection to the Report “within fourteen (14) days of the date of service of the Report and Recommendation,” or by September 14, 2015. (ECF No. 19.) Petitioner filed no objections.

In the absence of objections to the Magistrate Judge’s Report, this court is not required to provide an explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Rather, “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.’” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (*quoting* Fed. R. Civ. P. 72 advisory committee’s note). Furthermore, failure to file specific written objections to the Report results in a party’s waiver of the right to appeal from the judgment of the District Court based upon such recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985).

After a thorough review of the Report and the record in this case, the court finds the Report provides an accurate summary of the facts and law. The court **ADOPTS** the Magistrate Judge’s Report and Recommendation (ECF No. 10). It is therefore **ORDERED** that:

- Plaintiffs' motion to voluntarily dismiss its claims against SCDMH and SCDC (ECF No. 14) be **GRANTED**;
- Plaintiffs' 42 U.S.C. § 1983 claims against Defendants SCDMH and SCDC be **DISMISSED** with prejudice; and
- Plaintiffs' motion to remand their claims against Jarvis Omar Hayes—the defendant formerly identified as Unknown Driver John Doe—(ECF No. 14) be **GRANTED** under 28 U.S.C. § 1367(c).

Defendants' Motion to Dismiss for Failure to State a Claim (ECF No. 6) therefore is rendered **MOOT**.

IT IS SO ORDERED.

A handwritten signature in black ink that reads "J. Michelle Childs". The signature is written in a cursive, flowing style.

United States District Judge

October 29, 2015
Columbia, South Carolina