

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

Clarence B. Jenkins, Jr.,)
)
 Plaintiff,)
)
 v.)
)
 United States,)
)
 Defendant.)
 _____)

C/A No. 3:17-cv-1775-TLW

ORDER

Plaintiff Clarence B. Jenkins, Jr., proceeding *pro se*, filed this action pursuant to the Federal Tort Claims Act, 28 U.S.C. §§ 2671-2680, 1346(b), alleging that Defendant United States negligently placed a suggestion box over chairs in the Dorn VA Medical Center. ECF No. 1. The parties filed cross motions for summary judgment, ECF Nos. 42, 54, which have been fully briefed.

This matter now comes before the Court for review of the Report and Recommendation (the Report) filed on September 25, 2018, by United States Magistrate Judge Paige J. Gossett, to whom this case was previously assigned pursuant to 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2), (D.S.C.). ECF No. 61. In the Report, the Magistrate Judge recommends denying Plaintiff’s motion and granting Defendant’s motion. *Id.* Plaintiff filed objections to the Report, ECF Nos. 64, 66, 68, and Defendant filed a reply, ECF No. 67. This matter is now ripe for disposition.

This Court is charged with conducting a *de novo* review of any portion of the Magistrate Judge’s Report and Recommendation to which a specific objection is registered, and may accept, reject, or modify, in whole or in part, the recommendations contained in that Report. 28 U.S.C. § 636. In conducting its review, the Court applies the following standard:

The magistrate judge makes only a recommendation to the Court, to which any party may file written objections.... The Court is not bound by the recommendation of the magistrate judge but, instead, retains responsibility for the final determination. The Court is required to make a *de novo* determination of those portions of the report or specified findings or recommendation as to which an objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the report and recommendation to which no objections are addressed. While the level of scrutiny entailed by the Court's review of the Report thus depends on whether or not objections have been filed, in either case the Court is free, after review, to accept, reject, or modify any of the magistrate judge's findings or recommendations.

Wallace v. Housing Auth. of the City of Columbia, 791 F. Supp. 137, 138 (D.S.C. 1992) (citations omitted).

In light of the standard set forth in *Wallace*, the Court has reviewed, *de novo*, the Report and the objections. The Court concludes that Plaintiff's filings offer no factual support for his legal conclusions that Defendant negligently placed the suggestion box. Further, Plaintiff has not presented the Court with sufficient evidence of negligence because he stated, "I did noticed [*sic*] the suggestion box located on the wall but it appeared to be not in the way." ECF No. 54-2 at 3. For the reasons articulated by the Magistrate Judge, it is hereby **ORDERED** that the Plaintiff's objections are **OVERRULED** and the Magistrate Judge's Report and Recommendation, ECF No. 61, is **ACCEPTED**. Plaintiff's motion for summary judgment, ECF No. 42, is **DENIED**, and Defendant's motion for summary judgment, ECF No. 54, is **GRANTED**. Pursuant to this Order, this case is hereby **DISMISSED**.

IT IS SO ORDERED.

s/Terry L. Wooten
Chief United States District Judge

January 30, 2019
Columbia, South Carolina