

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

Shakara Murphy,
Plaintiff,

vs.

Benjamin Fields; Leon Lott; Richland
County Sheriff's Department; Richland
County; Richland School District Two;
Robert Long; KaRon Webb,

Defendants.

Civil Action No. 3:17-cv-2914-CMC

OPINION AND ORDER

This matter is before the court on Defendants Robert Long and KaRon Webb's partial motion to dismiss, arguing Plaintiff's claims under 42 U.S.C. § 1983 against Long and Webb under a bystander liability theory should be dismissed. ECF No. 10. Plaintiff filed a response in opposition to the motion (ECF No. 11) and Defendants Long and Webb filed a reply (ECF No. 12). In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02 (B)(2), D.S.C., this matter was referred to United States Magistrate Judge Paige J. Gossett for pre-trial proceedings and a Report and Recommendation ("Report") on dispositive issues. On March 5, 2018, the Magistrate Judge issued a Report recommending Long and Webb's motion to dismiss be granted as to any §1983 claims against them based on a theory of bystander liability. ECF No. 20. The Magistrate Judge advised the parties of the procedures and requirements for filing objections to the Report and the serious consequences if they failed to do so. No party has filed objections and the time for doing so has passed.

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 reviewing the record of this matter, the applicable law, and the Report and Recommendation of the Magistrate Judge, the court agrees with the Report. Accordingly, the court adopts and incorporates the Report and Recommendation by reference in this Order. Defendants Long and Webb's partial motion to dismiss is granted, and any § 1983 claims against Defendants Long and Webb based on a theory of bystander liability are hereby dismissed with prejudice¹. This matter is referred back to the Magistrate Judge for further proceedings.

IT IS SO ORDERED.

s/Cameron McGowan Currie
CAMERON MCGOWAN CURRIE
Senior United States District Judge

Columbia, South Carolina
March 21, 2018

¹ As controlling precedent forecloses § 1983 claims based on a theory of bystander liability against Defendants Long and Webb, no amendment to the Complaint can allege a viable claim under this theory.