

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

Nathaniel Cooper,

Plaintiff,

v.

The State of South Carolina, The State of
North Carolina, The United States
Government, Time Warner Cable, and Galleria
Club Lane Apartments,

Defendants.

C/A. No. 3:17-cv-03205-CMC-PJG

Opinion and Order

This matter is before the court for review of a Report and Recommendation entered on March 6, 2018, ECF No. 26 (“Report”), and on Plaintiff’s Motion to Dismiss without prejudice, ECF No. 29 (“Motion”). For reasons set forth below, the court construes the Motion as consenting to the action recommended by the Report, adopts the Report, grants the Motion, and dismisses this action without prejudice and without issuance of service of process.

Report and Recommendation. 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. On March 6, 2018, the Magistrate Judge issued the Report recommending “this action be summarily dismissed without prejudice and without issuance of service of process.” ECF No. 26 at 6 (also denying Plaintiff’s motion to amend as futile).

The Report summarizes the allegations in Plaintiff’s Amended Complaint and proposed Second Amended Complaint as well as the procedural history of the action. ECF No. 26 at 1-3. It concludes the allegations in the Amended Complaint and proposed Second Amended Complaint “lack factual coherence and fail to state any recognizable legal claim for relief against the named

defendants.” *Id.* at 4 (stating the proposed amendments fail to cure previously noted deficiencies). The Report recommends summary dismissal without prejudice based on these deficiencies, a related failure to support the existence of subject matter jurisdiction, and Plaintiff’s failure to comply with an “order to bring this action into proper form for the issuance and service of process.” *Id.* at 5, 6.

The Magistrate Judge advised Plaintiff of the procedures and requirements for filing objections to the Report and the serious consequences if he failed to do so.

Plaintiff’s Motion. Rather than filing objections, Plaintiff filed a document captioned “Amended Complaint.” ECF No. 29. Despite the caption, the primary content of the filing is a “[r]equest that this case be dismissed without prejudice.” *Id.* at 1. Plaintiff also attaches a number of documents he asks be made part of the record. ECF No. 29-1. Neither the content of the cover document nor any of the attachments suggest any objection to the Report.

STANDARD

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility for making 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 any portion of the Report to which a specific objection is made. 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). In the absence of a specific objection, the court reviews only for clear error. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (“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.””) (quoting Fed. R. Civ. P. 72 advisory committee’s note)).

DISCUSSION

Plaintiff’s Motion seeks the same relief recommended in the Report: dismissal without prejudice. Under these circumstances, and because the court finds no error in the Report, it adopts the Report, grants Plaintiff’s Motion, and dismisses this action without prejudice and without issuance or service of process.

IT IS SO ORDERED.

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

Columbia, South Carolina
March 22, 2018