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

Michael R. Ray, Plaintiff, vs. Johnny Simon, et. al., Defendants.	)	Civil Action No.:4:07-1143-TLW-TER

ORDER

Plaintiff, Michael R. Ray, ("plaintiff") brought this civil action, *pro se*, seeking habeas relief pursuant to 28 U.S.C. § 2241 and bringing claims pursuant to 42. U.S.C. §1983/Bivens. (Doc. #1).

This matter now comes before this Court for review of the Report and Recommendation ("the Report") filed by United States Magistrate Judge Thomas E. Rogers, III, to whom this case had previously been assigned. (Doc. #114). In the Report, the Magistrate Judge recommends that the federal defendants' Motion for Summary Judgment, (Doc. #53), and the New Jersey defendants' Motion to Dismiss, (Doc. #87), be granted. (Doc. #114). The Magistrate Judge also recommends that the plaintiff's Motions for Default, (Doc. #41 and #66), be denied, and that plaintiff's Motion for a Deposition Subpoena, (Doc. #52), plaintiff's Motion for an Order to Show Cause, (Doc. #63), and the federal defendants' Motion for a Protective Order, (Doc. #61), be denied as moot. (Doc. #114). The Magistrate Judge further recommends that any other outstanding motions be deemed moot. (Doc. #114). The plaintiff filed initial objections and supplemental objections to the report. (Doc. #116, Doc. #120). In conducting this 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. After careful review of the Report and objections thereto, the Court **ACCEPTS** the Report. (Doc. #114). Therefore, for the reasons articulated by the Magistrate Judge, federal defendants' Motion for Summary Judgment, (Doc. #53), is **GRANTED.**

The New Jersey defendants' Motion to Dismiss, (Doc. #87), is **GRANTED.**

Plaintiff's motions for default, (Doc. #41 and #66), are **DENIED**.

Plaintiff's motion for a Deposition Subpoena, (Doc. #52), plaintiff's Motion for an Order to Show Cause, (Doc. #63), and federal defendants' Motion for a Protective Order, (Doc. #61), are **DENIED** as moot.

All additional outstanding motions are **DISMISSED** as moot.

IT IS SO ORDERED.

s/Terry L. Wooten
United States District Judge

December 23, 2008
Florence, South Carolina