

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

Nathan Andrew Groves and)
Joel Flake Stroud,)
)
Plaintiffs,)
)
vs.)
)
City of Darlington, SC,)
)
Defendant.)
_____)

Civil Action No. 4:08-cv-0402-TLW-TER

The plaintiffs have filed the current action pursuant to 42 U.S.C. § 1983. All pretrial proceedings have been referred to United States Magistrate Judge Thomas E. Rogers, III pursuant to the provisions of 28 U.S.C. § 636(b)(1)(A) and (B) and Local Rule 73.02(B)(2)(e).

This matter is before the Court for consideration of the Report and Recommendation (“the Report”) filed by the Magistrate Judge on February 19, 2010. (Doc. #82). In the Report, the Magistrate Judge recommends that the defendant’s motion to dismiss pursuant to Rule 41(b), (Doc. #41), be denied. The defendant filed objections to the Report. (Doc. #85). 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. #82). For the reasons articulated by the Magistrate Judge, the defendant's motion to dismiss pursuant to Rule 41(b) is **DENIED**. (Doc. #41). The Court notes that an additional motion to dismiss remains pending in this matter.

IT IS SO ORDERED.

s/Terry L. Wooten
United States District Judge

March 10, 2010
Florence, South Carolina