

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

Sergio Marshall, # 285653,)	
)	C/A No.: 4:08-cv-2775-GRA
Plaintiff,)	
)	
v.)	ORDER
)	(Written Opinion)
)	
Richard Bazzle, Warden and)	
Bob Olson, Food Service Director,)	
)	
Defendants.)	
)	

This matter comes before the Court for review of the magistrate’s Report and Recommendation made in accordance with 28 U.S.C. § 636(b)(1)(A) and (B) and Local Rule 73.02(B)(2)(d), D.S.C., and filed on July 29, 2009. Plaintiff filed this action on August 11, 2008 pursuant to 42 U.S.C. § 1983. Plaintiff filed a Motion for Leave to File Amended Complaint on October 8, 2008; a Motion for Injunctive Relief on November 12, 2008; a Motion for Partial Summary Judgment on January 12, 2009; and a Motion for Temporary Restraining Order on February 12, 2009. Defendants filed a response to Plaintiff’s motions on February 27, 2009. Defendants filed a Motion for Summary Judgment on February 13, 2009; Plaintiff was advised of the summary judgment dismissal procedure and its consequences pursuant to *Rosboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), on February 17, 2009; and Plaintiff responded on March 19, 2009. Magistrate Judge Rogers recommends DENYING all Plaintiff’s motions, GRANTING Defendants’ Motion for Summary Judgment, and DISMISSING

Plaintiff's case.

Plaintiff brings this claim *pro se*. This Court is required to construe *pro se* pleadings liberally. Such pleadings are held to a less stringent standard than those drafted by attorneys. *Gordon v. Leeke*, 574 F.2d 1147, 1151 (4th Cir. 1978). This Court is charged with liberally construing a pleading filed by a *pro se* litigant to allow for the development of a potentially meritorious claim. *Boag v. MacDougall*, 454 U.S. 364, 365 (1982).

The magistrate makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with this Court. *Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). This Court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objection is made, and this Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C. § 636(b)(1). This Court may also "receive further evidence or recommit the matter to the magistrate with instructions." *Id.* In the absence of specific objections to the Report and Recommendation, this Court is not required to give any explanation for adopting the recommendation. *Camby v. Davis*, 718 F.2d 198 (4th. Cir. 1983). Plaintiff has filed no objections.

After a review of the record, this Court finds that the magistrate's Report and Recommendation accurately summarizes this case and the applicable law. Accordingly, the Report and Recommendation is accepted and adopted in its entirety.

IT IS THEREFORE ORDERED that Plaintiff's Motion for Leave to File Amended

Complaint; Motion for Injunctive Relief; Motion for Partial Summary Judgment; and Motion for Temporary Restraining Order be DENIED; Defendants' Motion for Summary Judgment be GRANTED; and Plaintiff's case be DISMISSED.

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read "G. Ross Anderson, Jr.", is written over a horizontal line.

G. Ross Anderson, Jr.
Senior United States District Judge

August 27, 2009
Anderson, South Carolina

NOTICE OF RIGHT TO APPEAL

Plaintiff has the right to appeal this Order within thirty (30) days from the date of the entry of this Order, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure. Failure to meet this deadline, as modified by Rule 4 of the Federal Rules of Appellate Procedure, will waive the right to appeal.