

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

Reverend Franklin C. Reaves, Ph.D.,)	C.A. No.: 4:10-125-TLW-TER
)	
Plaintiffs,)	
)	
vs.)	
)	
Sherry R. Rhodes, individually and in her official capacity as)	
Clerk of Court for Marion County; Mark Richardson,)	
individually and in his official capacity as Sheriff of Marion)	
County; Levon Nichols, individually and in his official)	
capacity as Deputy Sheriff of Marion County; Willie Dean)	
White, individually; City of Mullins; Pam Lee, individually)	
and in her official capacity as Mayor; Terry B. Strickland,)	
individually and in his official capacity; Terry Davis,)	
individually and in her official capacity; Wayne Collins,)	
individually and in his official capacity; Jo A. Sanders,)	
individually and in her official capacity; Patricia A. Phillips,)	
individually and in her individual capacity; Carolyn Wilson,)	
individually and in her official capacity; City of Mullins)	
Police Department; Kenny Davis, individually and in his)	
official capacity as Chief of Mullins Police Department;)	
South Carolina Department of Social Services,)	
)	
Defendants.)	
)	

This action has been filed by the plaintiff, who is proceeding *pro se*. This matter is now before the undersigned for review of the Report and Recommendation (“the Report”) filed by United States Magistrate Judge Thomas E. Rogers, to whom this case had previously been assigned pursuant to 28 U.S.C. § 636(b) and Local Rule 73.02(B)(2) (D.S.C.). In his Report, Magistrate Judge Rogers recommends that (1) Plaintiff’s Motion for Default Judgment (Document # 31) be denied; (2) the Mullins Defendants’ Motion for Summary Judgment (Document # 64) be granted and (3) the Marion

Defendants' Motion for Summary Judgment (Document # 75) be granted. Additionally, it is recommended that any claims against Defendant Willie Dean White be dismissed pursuant to Rule 4(m), Fed.R.Civ.P., and that this case be dismissed in its entirety. The Report also notes that if this Court accepts the recommendation, that all other pending motions will be moot. The Report was filed on January 26, 2011. On January 28, 2011, within the objections time period, Plaintiff filed a "Motion to strike defendants' collateral attack on North Carolina Divorce Decree, entered November 2, 2006."¹ On February 14, 2011, plaintiff filed objections to the Report.

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 this standard, the Court has reviewed, *de novo*, the Report and the objections

¹Although not captioned as objections to the Report, out of an abundance of caution, the Court will consider this motion both as objections to the Report and as a substantive motion. Accordingly, the Court will review the Report, *de novo*. If considered as objections, the Court finds it appropriate to overrule the objections. To the extent that motion is considered as a substantive motion, in light of this Court's acceptance of the recommendation of the magistrate judge in this case, and after careful review and consideration, the Court concludes that this motion should be **DENIED**.

thereto. The Court accepts the Report.

THEREFORE, IT IS HEREBY ORDERED that the Magistrate Judge's Report is **ACCEPTED** (Doc. # 105), plaintiff's objections are **OVERRULED** (Docs. # 107 & # 111); Plaintiff's Motion for Default Judgment (Document # 31) is **DENIED**; the Mullins Defendants' Motion for Summary Judgment (Document # 64) is **GRANTED** and the Marion Defendants' Motion for Summary Judgment (Document # 75) is **GRANTED**. Additionally, any claims against Defendant Willie Dean White are **DISMISSED** pursuant to Rule 4(m), Fed.R.Civ.P., and this case is **DISMISSED** in its entirety. Any remaining pending motions not specifically addressed herein are now **MOOT**.

IT IS SO ORDERED.

s/ Terry L. Wooten
TERRY L. WOOTEN
UNITED STATES DISTRICT JUDGE

March 3, 2011
Florence, South Carolina