

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

Gary Lavon Robinson)	
)	
Plaintiff,)	
)	
vs.)	Case No. 4:15-cv-3472-TLW
)	
Thomas Ragland; Nikon Morgan;)	
Christopher Dillard; Faith Chappell;)	
and Jason Palmer,)	
)	
Defendants.)	
_____)	

ORDER

Plaintiff Gary Lavon Robinson, a state prisoner proceeding *pro se*, filed this action pursuant to 42 U.S.C. § 1983, alleging violations of his constitutional rights. ECF Nos. 1, 27. On April 11, 2016, Defendants filed a motion for summary judgment, ECF No. 59, to which Plaintiff filed a response in opposition, ECF No. 71. The matter now comes before the Court for review of the Report and Recommendation (the Report) filed on December 16, 2016, by United States Magistrate Judge Thomas E. Rogers, III, to whom this case is assigned pursuant to 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02(B)(2)(d), (D.S.C.). ECF No. 87.¹ In the Report, the Magistrate Judge recommends granting in part and denying in part Defendants’ motion for summary judgment. *Id.* Plaintiff filed Objections to the Report, ECF Nos. 93, 100, and Defendants filed a Reply, ECF No. 97. This matter is now ripe for disposition.

¹ The Magistrate Judge also filed a Supplement to the Report and Recommendation correcting a scrivener’s error in the original Report’s Conclusion section. ECF No. 89.

The Court is charged with conducting a *de novo* review of any portion of the Magistrate Judge's Report and Recommendation to which a specific objection is registered, and may accept, reject, or modify, in whole or in part, the recommendations contained in that report. 28 U.S.C. § 636. 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 carefully reviewed the Report, the parties' objections, relevant filings, and applicable law and concludes that the Magistrate Judge accurately summarized the applicable law. The Report recommends that the motion for summary judgment be denied in part such that Plaintiff's claims against Defendants Ragland, Dillard, and Morgan for excessive force survive summary judgment. ECF No. 59. After careful consideration, **IT IS ORDERED** that the Magistrate Judge's Report and Supplement to the Report, ECF Nos. 87, 89, are **ACCEPTED**. Accordingly, Defendants' motion for summary judgment, ECF No. 59, is **GRANTED IN PART AND DENIED IN PART** as set forth in the Report.

In light of this Court's acceptance of the Magistrate Judge's Report and Recommendation resulting in the excessive force claim surviving summary judgment, the Magistrate Judge is hereby directed: (i) to appoint counsel to represent the Plaintiff; (ii) to hold a hearing with the parties

and their counsel to seek Consent to conduct all proceedings in this matter, including trial, before the Magistrate Judge; and (iii) to enter a Scheduling Order.

IT IS SO ORDERED.

s/ Terry L. Wooten

Chief United States District Judge

March 23, 2017
Columbia, South Carolina