

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

Christopher Roach,)
)
Plaintiff,)
)
v.)
)
Correctional Officer Timmons,)
in his official capacity as a correctional)
officer, Bernard McKie,)
in his official capacity as a warden,)
South Carolina Department of Corrections;)
)
Defendants.)
_____)

Civil Case No. 4:16-00948-JMC

ORDER

Pro Se Plaintiff Christopher Roach, an inmate at Alvin S. Glenn Detention Center in Columbia, South Carolina, filed this civil action pursuant to 42 U.S.C. § 1983 on March 23, 2016, alleging a claim of excessive force against Correctional Officer Timmons and Warden Bernard McKie (“Defendants”). (ECF No. 1.) Plaintiff asserts Defendants’ use of excessive force violated his Eighth Amendment right to be free from cruel and unusual punishment. (ECF No. 1 at 3-7.)

The Magistrate Judge’s Report and Recommendation, filed on August 22, 2016, ruled that Plaintiff failed to respond to a court’s order notifying him to serve Defendants a copy of his summons and complaint. (ECF No. 28 at 3.) The Report and Recommendation sets forth in detail the relevant facts and legal standards on this matter, and the court incorporates the Magistrate Judge’s recommendation herein without a recitation.

The Magistrate Judge’s Report and Recommendation is made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 for the District of South Carolina. The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The

responsibility to make a final determination remains with this court. *Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). The court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objections are made, and the court may accept, reject, or modify, in whole or in part, the Magistrate Judge's recommendation or recommit the matter with instructions. *See* 28 U.S.C. § 636(b)(1).

Plaintiff was advised of his right to file objections to the Report and Recommendation (ECF No. 28 at 5.) However, Plaintiff filed no objections to the Report and Recommendation. In the absence of objections to the Magistrate Judge's Report and Recommendation, this court is not required to provide an explanation for adopting the recommendation. *Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Rather, "in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must 'only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.'" *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee's note). Furthermore, failure to file specific written objections to the Report and Recommendation results in a party's waiver of the right to appeal from the judgment of the District Court based upon such recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984).

After a thorough review of the Report and Recommendation and the record in this case, the court adopts the Magistrate Judge's Report and Recommendation and incorporates it herein. (ECF No. 28.) It is therefore **ORDERED** that Plaintiff's Complaint, (ECF No. 1) is dismissed without prejudice.

IT IS SO ORDERED.

A handwritten signature in black ink that reads "J. Michelle Childs". The signature is written in a cursive style with a large, looped initial "J".

United States District Judge

April 14, 2017
Columbia, South Carolina