

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

Alexis Centeno, #14146-055,)
)
Plaintiff,)
)
v.)
)
Mr. J. Meeks, Warden; Mrs. Simmons,)
Assistance Warden; Mr. Ray Burn,)
Capetian; Mrs. Urrea, H.S.A.; Mr.)
Whitehurst, A.H.S.A.; Dr. Luranth,)
Medical Director; Dr. Massa, Medical)
Director,)
)
Defendants.)
_____)

Civil Action No. 4:16-cv-1482-BHH

ORDER

This matter is before the Court upon Plaintiff's pro se complaint filed pursuant to *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971). On September 27, 2016, Defendants filed a motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(1). Plaintiff failed to respond to the motion, and a United States Magistrate Judge, in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02(B)(2)(d) (D.S.C.), entered a report and recommendation ("Report") recommending dismissal of the action for failure to prosecute pursuant to Rule 41 of the Federal Rules of Civil Procedure.

The Court adopted the Magistrate Judge's Report; however, on January 6, 2017, Plaintiff filed a motion for reconsideration. The Court granted Plaintiff's motion and vacated its order adopting the Report. After the matter was referred to the Magistrate Judge for further proceedings, the Magistrate Judge notified the parties that because they submitted matters outside the pleadings, the motion to dismiss was being converted to a motion for

summary judgment. The parties filed additional responses, and on April 28, 2017, the Magistrate Judge issued another Report outlining the issues and recommending that the Court grant Defendants' motion for summary judgment with respect to Plaintiff's *Bivens* claim. The Magistrate Judge also recommended that Defendants be granted time to supplement with Certification and to file dispositive motions with regard to any claim pursuant to the Federal Tort Claims Act ("FTCA").

Attached to the Magistrate Judge's Report was a notice advising Plaintiff of the right to file written objections to the Report within fourteen days of being served with a copy. On May 10, 2017, Plaintiff filed a motion for an extension of time to file objections. The Court granted the motion and instructed Plaintiff to file his objections by June 23, 2017. Despite this extension, no objections have been filed to date.

The Magistrate Judge makes only a recommendation to the Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261 (1976). The Court is charged with making a de novo determination only of those portions of the Report to which specific objections are made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of specific objections, the Court reviews the matter only for clear error. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that "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.'") (quoting Fed. R. Civ. P. 72 advisory committee's note).

Here, because no objections were filed, the Court has reviewed the record, the applicable law, and the findings and recommendations of the Magistrate Judge for clear error. After review, the Court finds no clear error and agrees with the Magistrate Judge's findings.

Accordingly, the Court adopts and incorporates the Magistrate Judge's Report (ECF No. 58), and the Court grants Defendants' motion for summary judgment (ECF No. 26) with respect to Plaintiff's *Bivens* claim. The Court also grants Defendants 45 days to supplement with Certification and file dispositive motions with regard to any FTCA claim.

IT IS SO ORDERED.

/s/Bruce H. Hendricks
The Honorable Bruce Howe Hendricks
United States District Judge

June 28, 2017
Charleston, South Carolina