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

ERIC DAVIS,	§
Plaintiff,	§
	§
VS.	§ CIVIL ACTION NO. 4:16-02791-MGL-TER
	§
THOMAS ELEMO; JOHN WIGGINS;	§
J. WUTTON; and LESTER SMITH,	§
Defendants.	§

## ORDER ADOPTING THE REPORT AND RECOMMENDATION AND SUMMARILY DISMISSING DEFENDANTS SMITH, WIGGINS, AND WUTTON WITHOUT ISSUANCE AND SERVICE OF PROCESS

This case was filed as a 42 U.S.C. § 1983 action. Plaintiff is proceeding pro se. The matter is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge suggesting that Defendants Smith, Wiggins, and Wutton be summarily dismissed without issuance and service of process. The Report was made in accordance with 28 U.S.C. § 636 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 the Court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a de novo determination of those portions of the Report to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed the Report on October 20, 2016, but Plaintiff failed to file any

objections to the Report. "[I]n 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).

Moreover, a failure to object waives appellate review. Wright v. Collins, 766 F.2d 841, 845-46 (4th

Cir. 1985).

After a thorough review of the Report and the record in this case pursuant to the standard set

forth above, the Court adopts the Report and incorporates it herein. Therefore, it is the judgment

of the Court that Defendants Smith, Wiggins, and Wutton are SUMMARILY DISMISSED

WITHOUT ISSUANCE AND SERVICE OF PROCESS.

IT IS SO ORDERED.

Signed this 8th day of November, 2016, in Columbia, South Carolina.

s/ Mary Geiger Lewis

MARY GEIGER LEWIS

UNITED STATES DISTRICT JUDGE

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NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this Order within thirty days from the

date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.

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