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

Matthew J. Ward, #330240,	)	
	)	
Plaintiff,	)	C.A. No. 4:17-0367-HMH-TER
	)	
vs.	)	
	)	**OPINION & ORDER**
James Blackwell, Asst. Warden,	)	
Tamara Ravenell, Classification,	)	
Jack Kicinski, Officer,	)	
	)	
Defendants.	)	

This matter is before the court with the Report and Recommendation of United States Magistrate Judge Thomas E. Rogers III, made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 of the District of South Carolina.[1] Matthew J. Ward ("Ward"), a pro se state prisoner, filed a civil rights action under 42 U.S.C. § 1983 and § 1915. Ward alleges that Jack Kicinski ("Kicinski") failed to protect him during a prison fight and Defendants Tamara Ravenell ("Ravenell") and James Blackwell ("Blackwell") breached their duty of care to Ward by failing to properly supervise Kicinski. After careful review of the pro se complaint, Magistrate Judge Rogers recommends Blackwell and Ravenell be dismissed from the case.[2]

[1] The recommendation has no presumptive weight, and the responsibility for making a final determination remains with the United States District Court. See 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 objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the magistrate judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

[2] "To prevent . . . abusive or captious litigation, § 1915(d) authorizes federal courts to dismiss a claim filed *in forma pauperis* if . . . the action is frivolous or malicious. Dismissals on these grounds are often made *sua sponte* prior to the issuance of process, so as to spare prospective defendants the inconvenience and expense of answering such complaints." Neitzke v. Williams, 490 U.S. 319, 324 (1989).

Ward filed objections to the Report and Recommendation. Objections to the Report and Recommendation must be specific. Failure to file specific objections constitutes a waiver of a party's right to further judicial review, including appellate review, if the recommendation is accepted by the district judge. See United States v. Schronce, 727 F.2d 91, 94 & n.4 (4th Cir. 1984). In the absence of specific objections to the Report and Recommendation of the magistrate judge, this court is not required to give any explanation for adopting the recommendation. See Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983).

Upon review, the court finds that many of Ward's objections are non-specific, unrelated to the dispositive portions of the magistrate judge's Report and Recommendation, or merely restate his claims. However, the court was able to glean one specific objection. Ward objects that the magistrate judge erred by recommending that his claims against Blackwell and Ravenell be dismissed because there are adequate grounds to support a claim for supervisor liability. (Objs. 2-3, ECF No. 23.)

State-actor supervisors are generally not liable for actions of their subordinates. Monell v. Dep't of Soc. Servs., 436 U.S. 658, 694 (1978). However, the Fourth Circuit has provided a limited exception for supervisor liability under § 1983, which requires a plaintiff to show:

> (1) that the supervisor had actual or constructive knowledge that his subordinate was engaged in conduct that posed "a pervasive and unreasonable risk" of constitutional injury to citizens like the plaintiff;
> (2) that the supervisor's response to that knowledge was so inadequate as to show "deliberate indifference to or tacit authorization of the alleged offensive practices,"; and
> (3) that there was an "affirmative causal link" between the supervisor's inaction and the particular constitutional injury suffered by the plaintiff.

Shaw v. Stroud, 13 F.3d 791, 799 (4th Cir. 1994).

In the complaint, Ward's only statement regarding Blackwell and Ravenell was that "[he] wrote Defendants James Blackwell (Jan 4 and 10th of 2016) Tamara Ravenell (Jan 4, 5, and 10th

of 2016) . . . about this situation and got ignoring responses." (Compl. 4, ECF No. 1.) However, in his objections to the Report and Recommendation, Ward states that Blackwell and Ravenell were aware of similar incidents and were in a position to prevent reoccurrences, but failed to take reasonable steps to prevent similar incidents from reoccurring. (Objs. 2-3, ECF No. 23.) Although Ward has failed to adequately plead a cause of action in the complaint, the court recognizes that Ward's allegations in his objections are sufficient to plead a complaint against Blackwell and Ravenell. See Erickson v. Pardus, 551 U.S. 89, 93 (2007) (per curiam) ("A document filed *pro se* is to be liberally construed . . . and a *pro se* complaint, however inartfully pleaded, must be held to less stringent standards than formal pleadings drafted by lawyers." (internal quotation marks and citations omitted)). Out of an abundance of caution and in light of Ward's pro se status, the court will allow Ward to amend his complaint to include his allegations for supervisory liability.

Therefore, after a thorough review of the Report and Recommendation and the record in this case, the court declines to adopt the magistrate judge's Report and Recommendation.

It is therefore

ORDERED that Ward file an amended complaint within 15 days of this order. It is further

ORDERED that this case is remanded to the magistrate judge for further proceedings.

IT IS SO ORDERED.

s/Henry M. Herlong, Jr.
Senior United States District Judge

Greenville, South Carolina
April 3, 2017