

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

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|---|---|---------------------------|
| Jerry Smith, #71109-004, |) | |
| |) | C/A No. 4:17-2499-MBS-TER |
| Plaintiff, |) | |
| |) | |
| vs. |) | |
| |) | ORDER AND OPINION |
| R. Goodman, Riffle, Dr. Hoey, L. Cross, |) | |
| Wright, Gio Ramirez, Thomas Kane, |) | |
| Southeast Regional Director, and U.S. |) | |
| Department of Justice, |) | |
| |) | |
| Defendants. |) | |
| |) | |

Plaintiff Jerry Smith is a federal inmate currently housed at FCI-Williamsburg in Salters, South Carolina. On September 18, 2017, Plaintiff, proceeding pro se, filed a complaint alleging that Defendants violated his constitutional rights in various respects. See *Bevins v. Six Unknown Named Agents of the Fed. Bur. of Narcotics*, 403 U.S. 388 (1971).

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Thomas E. Rogers, III for pretrial handling. The Magistrate Judge reviewed the complaint pursuant to the provisions of 28 U.S.C. §§ 1915, 1915A, the Prison Litigation Reform Act of 1996, and relevant precedents. On October 10, 2017, the Magistrate Judge issued a Report and Recommendation in which he determined that (1) Defendants Southeast Regional Director and Kane should be summarily dismissed because there are not facts to show personal involvement in the alleged constitutional violations; and (2) the United States Department of Justice should be summarily dismissed because there can be no Bivens claim against a federal agency itself. The Magistrate Judge determined that Plaintiff had stated claims against the remaining Defendants. Plaintiff filed no objections to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). This court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the Magistrate Judge. 28 U.S.C. § 636(b)(1). This court may also receive further evidence or recommit the matter to the Magistrate Judge with instructions. Id. 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).

The court has thoroughly reviewed the record. The court concurs in the Report and Recommendation and incorporates it herein by reference. Plaintiff’s complaint is summarily dismissed without prejudice and without issuance and service of process as to Defendants Southeast Regional Director, Kane, and the United States Department of Justice only. The case is recommitted to the Magistrate Judge for further pretrial handling.

IT IS SO ORDERED.

/s/ Margaret B. Seymour
Senior United States District Judge

Columbia, South Carolina

November 15, 2017