



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

ZIAUL M. HOSSAIN,
Plaintiff

vs.

DUKE ENERGY,
Defendant.

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CIVIL ACTION NO. 4:18-404-MGL-TER

**ORDER ADOPTING THE REPORT AND RECOMMENDATION
AND DENYING DEFENDANTS' MOTION TO DISMISS**

Plaintiff Ziaul M. Hossain filed this action against Defendant Duke Energy (Duke) alleging employment discrimination because of his race and disability. He 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 Duke's motion to dismiss pursuant to Fed. R. Civ. P. 41(b) be denied. 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 12, 2018, and Duke filed its objections on October 26, 2018. In its objections, Duke complains the Magistrate Judge erred in failing to address its request Hossain be compelled to comply with his discovery obligations. Therefore, it asks this Court grant its motion to compel.

Inasmuch as the Magistrate Judge is handling all pretrial matters in this action, however, the Court is of the opinion it ought to leave the adjudication of Duke's motion to compel to the wise discretion of the learned Magistrate Judge. Accordingly, Duke's objection is overruled.

After a thorough review of the Report and the record in this case pursuant to the standard set forth above, the Court overrules Duke's objection, adopts the Report, and incorporates it herein. Therefore, it is the judgment of this Court Duke's motion to dismiss is **DENIED**.

IT IS SO ORDERED.

Signed this 29th day of October, 2018, in Columbia, South Carolina.

s/ Mary G. Lewis

MARY G. LEWIS
UNITED STATES DISTRICT JUDGE