

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

Michael Sgro,)
)
Plaintiff,)
)
v.)
)
Federal Bureau of Investigation, Myrtle)
Beach Police Department, Myrtle Beach)
City Attorney, T. Anderson, J. Mackin,)
T. Anderson, Ofc. Reilley, Ofc. Falco,)
)
Defendants.)
_____)

Civil Action No. 4:23-cv-96-BHH

ORDER

This matter is before the Court upon Plaintiff Michael Sgro’s (“Plaintiff”) pro se civil action seeking damages from Defendants. In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02, D.S.C., the matter was referred to a United States Magistrate Judge for preliminary review.

Plaintiff initially filed this action on January 9, 2023, and Magistrate Judge Kevin F. McDonald issued an order on January 27, 2023, informing Plaintiff that the case was not in proper form and instructing Plaintiff to submit certain documents and bring the case into proper form. Plaintiff submitted certain documents on February 9, 2023, and also filed a motion for summary judgment on February 17, 2023.

On February 27, 2023, Magistrate Judge McDonald issued a Report and Recommendation (“Report”), outlining the issues and explaining that initial review of Plaintiff’s complaint remains ongoing and service of the complaint has not yet been authorized. As such, the Magistrate Judge’s Report recommends that the Court deny Plaintiff’s motion for summary judgment (ECF No. 13) as prematurely filed. Attached to the

Report was a notice advising Plaintiff of the right to file written objections to the Report within fourteen days of receiving a copy.

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).

On March 13, 2023, Plaintiff filed written objections to the Magistrate Judge’s Report. After a careful review of Plaintiff’s objections, however, the Court finds them without merit. Importantly, nowhere does Plaintiff specifically object to the Magistrate Judge’s finding that Plaintiff’s motion for summary judgment was filed prematurely. Rather, Plaintiff’s objections simply repeat his allegations and refer to unrelated matters. Ultimately, after de novo review, the Court fully agrees with the Magistrate Judge that Plaintiff’s motion for summary judgment should be denied as prematurely filed. As the Magistrate Judge points out in the Report, initial review of this case is ongoing pursuant to 28 U.S.C. § 1915, and Plaintiff’s complaint has not yet even been served on Defendants.

Accordingly, it is hereby **ORDERED** that the Magistrate Judge's Report (ECF No. 16) is adopted and incorporated herein; Plaintiff's objections (ECF No. 20) are overruled; and Plaintiff's motion for summary judgment (ECF No. 13) is denied without prejudice as it was prematurely filed.

IT IS SO ORDERED.

/s/Bruce Howe Hendricks
United States District Judge

May 17, 2023
Charleston, South Carolina