

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

James Edward Ham,)
)
 Plaintiff,)
)
 vs.)
)
 James Hudson and Mike Melton,)
)
 Defendants.)
_____)

Case No.: 4:23-cv-2619-JD-KDW

ORDER AND OPINION

This matter is before the Court with the Report and Recommendation (“Report”) of United States Magistrate Kaymani D. West, made in accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2) of the District of South Carolina.¹ (DE 18.) Plaintiff James Edward Ham (“Plaintiff” or “Ham”), proceeding *pro se* and *in forma pauperis*, filed this action under 42 U.S.C. § 1983 against Defendants James Hudson and Mike Melton (“Melton”) (collectively “Defendants”) alleging Melton arrested him on July 27, 2022, on a falsified warrant, and further alleging “the police has no evidence or the person claiming [Plaintiff] violated them.” (DE 1, p. 6.) Plaintiff alleges he took a polygraph to prove his innocence, but the police will not give him the results. (*Id.*) Further, Plaintiff alleges that he has been incarcerated for ten months without being indicted, and officers fabricated charges against him by falsifying an arrest warrant. (*Id.*)

On June 20, 2023, the Court issued an order notifying Plaintiff that his Complaint was subject to summary dismissal because he failed to allege sufficient factual allegations to state a claim. (DE 10.) The order further advised Plaintiff that he had until July 5, 2023, to file an

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).

amended complaint or otherwise cure the identified deficiencies in his pleadings. (Id.) Plaintiff did not file a response to the Order.

The Report was issued on July 19, 2023, recommending that the Complaint be dismissed without prejudice and without issuance and service of process because Plaintiff failed to file an amended complaint within the time provided. (DE 18.) Plaintiff has not filed an objection to the Report. In the absence of objections to the Report and Recommendation, 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). The Court 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).

Accordingly, after a thorough review of the Report and Recommendation and the record in this case, the Court finds no clear error on the face of the record. Therefore, the Court adopts the Report (DE 18) and incorporates it herein.

It is, therefore, **ORDERED** that Plaintiff’s case is dismissed without prejudice, without leave to amend, and without issuance and service of process.

IT IS SO ORDERED.



Joseph Dawson, III
United States District Judge

Florence, South Carolina
October 18, 2023

NOTICE OF RIGHT TO APPEAL

Plaintiff is hereby notified that he has the right to appeal this order within thirty (30) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.