

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

Roberto Diaz Fragoso, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 Immigration and Customs Enforcement, and )  
 Homeland Security Office, )  
 )  
 Defendants. )  
 \_\_\_\_\_ )

C.A. No. 5:13-2548-TMC

**ORDER**

Plaintiff, proceeding pro se, filed this action challenging his imprisonment. In accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02, D.S.C., this matter was referred to a magistrate judge for pretrial handling. Before the court is the magistrate judge’s Report and Recommendation (“Report”), construing the action as one filed pursuant to *Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1971), and recommending that the complaint be dismissed without prejudice. (ECF No. 11). Plaintiff was advised of his right to file objections to the Report. (ECF No. 11 at 5). However, Plaintiff filed no objections to the Report and the time to do so has now run.

The Report has no presumptive weight and the responsibility to make a final determination in this matter remains with this court. *See Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). In the absence of objections, this court is not required to provide an explanation for adopting the Report. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Rather, “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) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

After a thorough review of the Report and the record in this case, the court adopts the

Magistrate Judge's Report (ECF No. 11) and incorporates it herein. It is therefore **ORDERED** that the complaint is **DISMISSED** without prejudice.

**IT IS SO ORDERED.**

s/Timothy M. Cain  
United States District Judge

Anderson, South Carolina  
November 4, 2013

**NOTICE OF RIGHT TO APPEAL**

The parties are hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.