

Darren Simmons, #182509,  
Plaintiff,  
v.  
William R. Byars, Jr. et al., sued in their  
individual capacity,  
Defendants.

## Background

### Legal Standard

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this Court. *Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). This Court is charged with making a de novo determination of those portions of the R&R to which specific objection is made. Additionally, the 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.*

### **Discussion**

After review of the record and the R&R and finding no clear error on the face of the record, the Court agrees with and adopts the R&R as the order of the Court. *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005). The Court agrees Plaintiff has failed to satisfy the heavy burden required to obtain injunctive relief.

### **Conclusion**

As set forth above, the Court agrees with and adopts the R&R as the order of the Court. (Dkt. No. 119). Accordingly, Plaintiff’s motion for declaratory judgment and/or motion for temporary restraining order, (Dkt. No. 17), and motion for a temporary restraining order, (Dkt. No. 84), are denied.

**AND IT IS SO ORDERED.**

  
Richard Mark Gergel  
United States District Court Judge

May 12, 2014  
Charleston, South Carolina