

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

Corey Jawan Robinson,)
)
 Plaintiff,)
)
 v.)
)
 Sgt. M. Marquardt and Ofc. Legwell, SMU)
 A-1 Shift,)
)
 Defendants.)
 _____)

Civil Action No.: 5:14-cv-04664-JMC

ORDER AND OPINION

Plaintiff Corey Robinson (“Plaintiff”), proceeding *pro se*, filed this action pursuant to 42 U.S.C. § 1983 alleging that Defendants violated his constitutional rights. (ECF No. 1). Specifically, Plaintiff asserts that when he was an inmate at Lieber Correctional Institution, Defendant Marquardt administered chemical munitions on Plaintiff when Plaintiff was attempting to get Defendant Marquardt’s attention to address his medical needs. (ECF No. 1). Plaintiff asserts that Defendants used excessive force, were grossly negligent, and violated the Eighth and Fourteenth Amendments. (ECF No. 1 at 3). Plaintiff requests \$8,200.00 in compensatory damages for his pain and suffering from Defendant Legwell. He additionally seeks \$100,000 from Defendant Marquardt, as well as injunctive relief from the court ordering that Plaintiff be allowed to see a specialist to assess the damage that the chemical munitions may have caused to his lungs. (ECF No. 1 at 6).

On June 10, 2015, Defendants filed a Motion for Summary Judgment. (ECF No. 35). The court entered an order pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), advising Plaintiff of the summary judgment procedures and the time period for filing a response. (ECF No. 37). Subsequently, Plaintiff filed a response to the Motion for Summary Judgment on July 2, 2015.

(ECF No. 47). In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02, D.S.C., the matter was referred to United States Magistrate Judge Kaymani West for a Report and Recommendation. On January 20, 2016, the Magistrate Judge issued a Report and Recommendation (“Report”) recommending the court grant Defendants’ Motion for Summary Judgment and dismiss the complaint. (ECF No. 55.) The Report sets forth the relevant facts and legal standards, which this court incorporates herein without a recitation.

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 this court. *See Matthews v. Weber*, 423 U.S. 261, 270-71 (1976). This court is charged with making a *de novo* determination 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 Magistrate Judge’s recommendation, or recommit the matter with instructions. *See* 28 U.S.C. § 636 (b)(1).

Plaintiff was advised of his right to file objections to the Report (ECF No. 55-1). However, Plaintiff did not file any objections to the Report. In the absence of objections to the Magistrate Judge’s Report and Recommendation, this court is not required to provide an explanation for adopting the recommendation. *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). Furthermore, failure to file specific written objections to the Report and Recommendation results in a party’s waiver of the right to appeal from the judgment of the District Court based upon such recommendation. 28

U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984).

Therefore, after a thorough review of the Report of the Magistrate Judge, the court finds the Report provides an accurate summary of the facts and the law in this matter. Accordingly, the court **ADOPTS** the Report of the Magistrate Judge (ECF No. 55). It is therefore ordered that Defendants' Motion for Summary Judgment (ECF No. 35) is **GRANTED** and the complaint (ECF No. 1) is **DISMISSED** without prejudice.

IT IS SO ORDERED.

A handwritten signature in black ink that reads "J. Michelle Childs". The signature is written in a cursive, flowing style.

United States District Judge

February 10, 2016
Columbia, South Carolina