

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

Richard Mark Kough,)	
)	C/A No. 5:15-2934-MBS-KDW
Plaintiff,)	
)	
vs.)	
)	ORDER AND OPINION
Captain G. Pack and Sergeant R. Brown,)	
)	
Defendants.)	
_____)	

Plaintiff Richard Mark Kough is an inmate in custody of the South Carolina Department of Corrections who currently is housed at the Kershaw Correctional Institution in Kershaw, South Carolina. Plaintiff, proceeding pro se, filed a complaint on July 27, 2015, alleging that his constitutional rights were violated while he was incarcerated at the Broad River Correctional Institution in Columbia, South Carolina. In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Kaymani D. West for pretrial handling.

This matter is before the court on motion for temporary restraining order and preliminary injunction filed by Plaintiff on September 9, 2016. Plaintiff seeks to enjoin Defendants “from placing the plaintiff in segregated lock-up against his will without the benefit of Due Process.” ECF No. 77-1, 2. Defendants filed a response in opposition on September 26, 2016. On October 13, 2016, the Magistrate Judge issued a Report and Recommendation in which she determined that Plaintiff was not entitled to relief pursuant to the analysis set forth in Winter v. Natural Resources Defense Council, Inc., 555 U.S. 7, 20 (2008)(“A plaintiff seeking a preliminary injunction must establish that he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his favor, and that an injunction is

in the public interest.”). The Magistrate Judge further noted that the placement and assignment of inmates by correctional departments are discretionary functions, and are not generally subject to review. Accordingly, the Magistrate Judge recommended that Plaintiff’s motion for a temporary restraining order and preliminary injunction be denied. Plaintiff filed no objections to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). This 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. 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).

The court has thoroughly reviewed the record. The court adopts the Report and Recommendation and incorporates it herein by reference. Plaintiff’s motion for a temporary restraining order and preliminary injunction (ECF No. 77) is **denied**. The case is recommitted to the Magistrate Judge for additional pretrial handling.

IT IS SO ORDERED.

/s/ Margaret B. Seymour _____
Senior United States District Judge

Columbia, South Carolina
December 13, 2016