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

Othella Foust, f/k/a Othella Grant, Plaintiff, v. Latisha Walker; City of Orangeburg; Ronda Bamberg; Orangeburg County Sheriff's Department; and Orangeburg County, Defendants.	Civil Action No.: 5:15-cv-03445-JMC **ORDER AND OPINION**

Plaintiff Othella Foust ("Plaintiff") originally filed this action in the Court of Common Pleas for Orangeburg County, South Carolina. (ECF No. 1-1.) The defendants removed the action to this court on April 6, 2015. (ECF No. 1.) Subsequently, Plaintiff filed an amended complaint alleging a cause of action pursuant to 42 U.S.C. § 1983. (ECF No. 13.) In the amended complaint, Plaintiff named the following parties as defendants: Latisha Walker ("Walker"); City of Orangeburg ("the City"); Ronda Bamberg ("Bamberg"); Orangeburg County Sheriff's Department ("OCSD"); and Orangeburg County ("the County") (collectively, "Defendants"). Specifically, Plaintiff alleges that in October 2013, Plaintiff reported to the City that Walker had interfered in a domestic matter by improperly accepting service of process on behalf of Plaintiff's husband. (ECF No. 40 at 2.) Plaintiff alleges that the City informed Walker of Plaintiff's report and that Walker retaliated by filing a false police report with the OCSD. (*Id.*) As a result of Walker's police report, Plaintiff alleges that she was arrested. (*Id.*) Plaintiff asserts additional claims of malicious prosecution, negligence, false imprisonment, civil conspiracy, intentional infliction of emotional distress, and abuse of process against Defendants. (ECF No. 13.) Plaintiff seeks compensatory and punitive damages, as well as attorney's fees where allowed by law. (ECF No. 13 at 9).

This matter is before the court on Walker and the City's Motion to Dismiss (ECF No. 17) and the City's motion to strike portions of the complaint (ECF No. 18). Plaintiff filed responses in opposition to the motions. (ECF Nos. 23, 24.) 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 Shiva Hodges for a Report and Recommendation. On June 17, 2016, the Magistrate Judge issued a Report and Recommendation ("Report") recommending the court deny the Motion to Dismiss and the City's motion to strike portions of the complaint. (ECF No. 40). The Report sets forth the relevant facts and legal standards, which this court incorporates herein without a recitation.

The Magistrate Judge's Report is made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 for the District of South Carolina. 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). Objections to a Report and Recommendation must specifically identify portions of the Report and the basis for those objections. Fed. R. Civ. P. 72(b). "[I]n 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, 316 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee's note).

The parties were advised of their right to file objections to the Report. (ECF No. 40 at 6). The parties were required to file objections by July 5, 2016. To date, no objections to the Report

have been filed. Accordingly, this court has reviewed the Report of the Magistrate Judge and does not find clear error.

After a thorough review of the Report and the record in this case, the court finds the Report provides an accurate summary of the facts and law. The court **ADOPTS** the Magistrate Judge's Report and Recommendation (ECF No. 40). Accordingly, Walker and the City's Motion to Dismiss (ECF No. 17) is **DENIED**. Further, the City's Motion to Strike (ECF No. 18) is also **DENIED**. This matter is **REMANDED** to the Magistrate Judge for further pretrial handling.

IT IS SO ORDERED.

United States District Judge

August 10, 2016
Columbia, South Carolina