

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

James Franklin Gilbert, III,)	
)	
Plaintiff,)	Civil Case No. 5:16-cv-03395-JMC
)	
v.)	ORDER
)	
Cpt. Tucker,)	
Lauren County Johnson Detention Center,)	
and Laurens County,)	
)	
Defendants.)	
)	

Pro Se Plaintiff James Franklin Gilbert, III, formerly incarcerated at Laurens County Johnson Detention Center (“LCJDC”), Laurens, South Carolina, filed this civil action against Cpt. Tucker, Lauren County Johnson Detention Center, and Laurens County (“Defendants”) claiming Defendants violated his constitutional rights by failing to provide him safe and humane conditions of confinement. (ECF No. 1 at 4-9.) Plaintiff specifically alleges Defendants caused him pain and suffering and failed to provide him adequate hygiene supplies, mail supplies, writing supplies, and copies of his grievance forms during his incarceration at LCJDC. (ECF No. 1 at 4-5, 7 and 9.) Furthermore, Plaintiff requests for damages in the amount of \$10,000.00 and injunction relief. (ECF No. 1 at 8.)

The Magistrate Judge’s Report and Recommendation, filed on February 28, 2017, partially ruled that Plaintiff’s Complaint (ECF No. 1) fails to state a plausible claim pursuant to 42 U.S.C. § 1983 against Defendant LCJDC because it is not a person subject to suit under § 1983. (ECF No. 20 at 3.) The Magistrate Judge further ruled that Plaintiff failed to assert claims to show that Defendant Laurens County was responsible for alleged policy at issue or that it even had any

control or jurisdiction over LCJDC. *Id.* The Report and Recommendation sets forth in detail the relevant facts and legal standards on this matter, and the court incorporates the Magistrate Judge's recommendation herein without a recitation.

The Magistrate Judge's Report and Recommendation 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. *Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). The court is charged with making a *de novo* determination of those portions of the Report and Recommendation 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 and Recommendation (ECF No. 20 at 5.) However, Plaintiff filed no objections to the Report and Recommendation. 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. *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).

After a thorough review of the Report and Recommendation and the record in this case, the court adopts the Magistrate Judge's Report and Recommendation and incorporates it herein. (ECF No. 20.) It is therefore **ORDERED** that Plaintiff's Complaint, (ECF No. 1) is partially summarily dismissed without prejudice as to Defendants Laurens County Johnson Detention Center and Laurens County. It is also **ORDERED** that Defendant Cpt. Tucker be served with Plaintiff's Complaint. (ECF No. 1.)

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

April 13, 2017
Columbia, South Carolina