

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

Christopher Dean Wright,)
)
 Plaintiff,)
)
 v.)
)
 The Times and Democrat (Newspaper))
 and Lee Publications (Lee Enterprises),)
)
 Defendants.)
 _____)

Civil Case No. 5:16-cv-03433-JMC

ORDER

Pro Se Plaintiff Christopher Dean Wright, incarcerated at Orangeburg County Detention Center, Orangeburg, South Carolina, filed this civil action against The Times and Democrat Newspaper and Lee Publications (“Defendants”) claiming Defendants published a newspaper article that injured his reputation. (ECF No. 1 at 5.) Plaintiff specifically alleges defamation, slander, pain and suffering, mental anguish, and emotional distress, related to an article published in the September 29, 2016 issue. (ECF No. 1 at 4-5.)

The Magistrate Judge’s Report and Recommendation, filed on October 28, 2016, ruled that Plaintiff’s Complaint (ECF No. 1) fails to demonstrate complete diversity of citizenship or to claim an amount in controversy that satisfies the requirement of 28 U.S.C § 1332(a). (ECF No. 8 at 4.) The Magistrate Judge ruled that essential claims in the complaint are insufficient to show that the case is “arising under the Constitution, laws, or treaties of the United States.” 28 U.S.C. § 1331. Id. Furthermore, the Magistrate Judge determined that Plaintiff’s contentions do not assert Defendants violated a federal statute or constitutional provision. To the extent Plaintiff seeks to assert claims for violations of his civil rights pursuant to 42 U.S.C. § 1983, he did not allege that the violations were committed under the color of state law. 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. 8 at 6.) 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. 16.) It is therefore **ORDERED** that Plaintiff's Complaint (ECF No. 1) is **summarily dismissed** without prejudice and without issuance and service of process.

Certificate of Appealability

The law governing certificates of appealability provides that:

(c)(2) A certificate of appealability may issue... only if the applicant has made a substantial showing of the denial of a constitutional right.

(c)(3) The certificate of appealability... shall indicate which specific issue or issues satisfy the showing required by paragraph (2).

28 U.S.C. § 2253(c). A prisoner satisfies this standard by demonstrating that reasonable jurists would find this court's assessment of his constitutional claims is debatable or wrong and that any dispositive procedural ruling by the district court is likewise debatable. See *Miller-El v. Cockrell*, 537 U.S. 322, 336 (2003); *Slack v. McDaniel*, 529 U.S. 473, 484 (2000); *Rose v. Lee*, 252 F.3d 676, 683 (4th Cir. 2001). In this case, the legal standard for the issuance of a certificate of appealability has not been met.

IT IS SO ORDERED.



United States District Judge

April 13, 2017
Columbia, South Carolina