



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

JAMES GATEWOOD BLAKELY,
Plaintiff,

vs.

DIR. STIRLING, ASSOC. DIR. McCALL,
WARDEN BUSH, A-W STEPHAN, SGT.
JACKSON, and CAPT. REESE,
Defendants.

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Civil Action No. 5:17-01159-MGL-KDW

ORDER ADOPTING THE REPORT AND RECOMMENDATION AND DENYING
PLAINTIFF’S MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS

This case was filed as a 42 U.S.C. § 1983 action. Plaintiff is proceeding pro se. The matter is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge suggesting Plaintiff’s Motion for Leave to Proceed in forma pauperis be denied. The Report was made in accordance with 28 U.S.C. § 636 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 the Court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a de novo determination of those portions of the Report to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed the Report on May 12, 2017, but Plaintiff failed to file any objections to the Report. “[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, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note). Moreover, a failure to object waives appellate review. *Wright v. Collins*, 766 F.2d 841, 845-46 (4th Cir. 1985).

After a thorough review of the Report and the record in this case pursuant to the standard set forth above, the Court adopts the Report and incorporates it herein. Therefore, it is the judgment of the Court Plaintiff’s Motion for Leave to Proceed in forma pauperis is **DENIED**. Plaintiff is given fifteen (15) days from the date of the issuance of this Order to pay the filing fee of \$400, and the Office of the Clerk of Court shall withhold entry of judgment until such time expires. If Plaintiff fails to timely pay the filing fee, the Complaint shall be **DISMISSED WITHOUT PREJUDICE** under the “three strikes” rule of 28 U.S.C. § 1915(g), and the Clerk shall enter the required final judgment at the close of the fifteen-day period permitted for payment of the filing fee.

IT IS SO ORDERED.

Signed this 31st day of May 2017 in Columbia, South Carolina.

s/ Mary Geiger Lewis
MARY GEIGER LEWIS
UNITED STATES DISTRICT JUDGE

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this Order within thirty days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.