

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

Perry Drake Gilmore, Jr.,

Civil Action No. 5:17-cv-1880-CMC

Plaintiff,

vs.

ORDER

Lexington County,

Defendant.

This matter is before the court on Plaintiff's Complaint pursuant to 42 U.S.C. § 1983. ECF No. 1. On October 10, 2017, Plaintiff moved to amend his Amended Complaint (ECF No. 52) and filed a separate motion to remand this matter to state court because his proposed Second Amended Complaint no longer alleged federal claims (ECF No. 53). In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02 (B)(2)(d), D.S.C., the matter was referred to United States Magistrate Judge Kaymani D. West for pre-trial proceedings. The Magistrate Judge granted Plaintiff's motion to amend as unopposed. ECF No. 60. On November 9, 2017, the Magistrate Judge issued a Report and Recommendation ("Report") recommending Plaintiff's unopposed motion to remand be granted. ECF No. 64. The Magistrate Judge advised the parties of the procedures and requirements for filing objections to the Report and the serious consequences if they failed to do so. No party has filed objections and the time for doing so has passed.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *See Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of any portion of the Report of the Magistrate Judge to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made

by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. See 28 U.S.C. § 636(b). The court reviews the Report only for clear error in the absence of an objection. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “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.”) (citation omitted).

After considering the record, the applicable law, and the Report and Recommendation of the Magistrate Judge, the court agrees with the Report’s recommendation the matter be remanded to state court. Accordingly, the court adopts the Report by reference in this Order. This matter is hereby remanded to the Lexington County Court of Common Pleas.

IT IS SO ORDERED.

s/ Cameron McGowan Currie
CAMERON MCGOWAN CURRIE
Senior United States District Judge

Columbia, South Carolina
December 4, 2017