

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

Francis Anyokorit Masika, and)
Fredrick Jones,)
)
Plaintiffs¹,)
)
v.)
)
Sheriff Lee Foster;)
Newberry County Jail, and)
MCO McClanahan,)
)
Defendants.)
_____)

Civil Action No.: 5:17-cv-02102-JMC

ORDER

Plaintiff, proceeding *pro se*, brought this application pursuant to 28 U.S.C. §§ 1915, 1915A, and the PLRA. This matter is before the court for review of the Magistrate Judge's Report and Recommendation ("Report") (ECF No. 10), filed on August 31, 2017, recommending that Plaintiff's action, (ECF No. 1), be dismissed without prejudice. The Report sets forth in detail the relevant facts and legal standards on this matter, and the court incorporates the Magistrate Judge's recommendation herein without recitation.

¹ Although Frederick Jones is listed as a Plaintiff in the caption of the Complaint, he did not sign the pleading and he did not submit a filing fee or motion for leave to proceed *in forma pauperis*. As a result, Jones is not a proper party to this case and is listed in the caption of this Order for informational purposes only because his name appears on the pleading and docket. In any event, this court does not permit prisoners to appear as joint plaintiffs in light of the administrative-exhaustion and filing fee-payment requirements of the Prison Litigation Reform Act (PLRA). *See, e.g., Hubbard v. Haley*, 262 F.3d 1194, 1197 (11th Cir. 2001); *Goins v. S.C. Dep't of Corr.*, No. 4:12-cv-01924-CMC-TER, ECF No. 9 (D.S.C. Aug. 3, 2012); *Stepney v. Leeke*, No. 1:12-cv-01463-JMC-SVH, ECF No. 5 (D.S.C. June 11, 2012); *Blakely v. Hallman*, No. 5:12-cv-01289-TMC-KDW, ECF No. 10 (D.S.C. May 30, 2012); *Northrop v. Major*, No. 8:10-cv-02580-RMG-BHH, ECF No. 7 (D.S.C. Oct. 25, 2010). **Because Jones did not sign the Complaint, he is not party to this case. However, to the extent that he may be considered a party, no plausible claims are stated by him for the same reasons stated in relation to Plaintiff Masika.** All references to "Plaintiff" herein are to Plaintiff Masika.

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, and the recommendation has no presumptive weight—the responsibility to make a final determination remains with this court. *See 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 an objection to the Report “within fourteen (14) days of the date of service of the Report and Recommendation,” or by September 14, 2017. (ECF No. 10.) Plaintiff filed no objections.

In the absence of objections to the Magistrate Judge's Report, this court is not required to provide an explanation for adopting the recommendation. *See 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 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).

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 and does not contain clear error. The court **ADOPTS** the Magistrate Judge's Report and Recommendation (ECF No. 10). It is

therefore **ORDERED** that Plaintiff's action, (ECF No. 1), be **DISMISSED** without prejudice.

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

September 22, 2017
Columbia, South Carolina