

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

Altony Brooks,)
)
 Plaintiff,)
)
 v.)
)
 Holly Hill Police Office, Cpl. Yacabozzi,)
 Joshua H. Deter, Orangeburg County)
 Sheriff's Office, Berkeley County)
 Sheriff's Office, Chasity Sanders)
 Avenger, John Doe of Orangeburg,)
)
 Defendants.)
 _____)

Civil Action No. 5:21-cv-3283-BHH

ORDER

This matter is before the Court upon Plaintiff Altony Brooks' ("Plaintiff") pro se amended complaint. (ECF No. 25.) In accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02(B)(2)(d), D.S.C., the matter was referred to a United States Magistrate Judge for preliminary review.

On May 15, 2024, the Magistrate Judge issued a report and recommendation ("Report"), outlining the issues and recommending that certain Defendants and claims be summarily dismissed. Specifically, the Magistrate Judge recommended: that Defendant Judge Avinger be summarily dismissed on the basis of judicial immunity; that any claims for false arrest, false imprisonment, and/or illegal search and seizure against Defendant Yacabozzi be dismissed under *Heck v. Humphrey*, 512 U.S. 477 (1994); that any § 1983 claims against Defendants Berkeley County Sheriff's Office, Orangeburg County Sheriff's Office, and Holly Hill Police Office be dismissed because these Defendants are not "persons" subject to suit under § 1983; that Plaintiff's claims under the South Carolina Tort Claims Act against Defendants Berkeley County Sheriff's Office and Orangeburg County

Sheriff's Office be dismissed on the basis of Eleventh Amendment immunity; that Plaintiff's claims under the South Carolina Constitution be dismissed; and that Plaintiff's claims against Defendant Holly Hill Police Office under South Carolina law for assault and battery, outrage, and corporal punishment be dismissed because they are subject to the limitations of the South Carolina Tort Claims Act. (ECF No. 33 at 4-12.) Attached to the Magistrate Judge's Report was a notice advising the parties of the right to file written objections to the Report within fourteen days of being served with a copy. To date, no objections to the Report have been filed.

The Magistrate Judge makes only a recommendation to the Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261 (1976). The Court is charged with making a *de novo* determination only of those portions of the Report to which specific objections are made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of specific objections, the Court reviews the matter only for clear error. *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.'") (quoting Fed. R. Civ. P. 72 advisory committee's note).

Here, because no objections have been filed, the Court has reviewed the record, the applicable law, and the findings and recommendations of the Magistrate Judge for clear error. After review, the Court finds no clear error and agrees with the Magistrate Judge's

analysis. **Accordingly, the Court adopts the Magistrate Judge's Report (ECF No. 33) and summarily dismisses Defendants Judge Chasity Sanders Avinger, Holly Hill Police Office, Berkeley County Sheriff's Office, and Orangeburg County Sheriff's Office as Defendants. The Court also summarily dismissed Plaintiff's § 1983 claims against Defendant Yacobozzi for false arrest, false imprisonment, and illegal search and seizure. The Amended Complaint shall be served on Defendants Yacobozzi, Deter, and Doe.**

IT IS SO ORDERED.

/s/Bruce H. Hendricks
United States District Judge

June 4, 2024
Charleston, South Carolina