

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

John Ray Dowdle, aka John R. Dowdle,)	
)	C/A No. 6:10-0442-MBS
Plaintiff,)	
)	
vs.)	ORDER
)	
Ms. Debbie, Kitchen Supervisor; Sgt.)	
Terry Blackwell; Cpt. Amanda Luna;)	
PT. Joe Bolin; PT. Billy Hyatt; PT. Melissa)	
Smith; PT. Harold Phillips,)	
)	
Defendant.)	
_____)	

Plaintiff John Ray Dowdle is a pretrial detainee at the Cherokee County Detention Center in Gaffney, South Carolina. Plaintiff, proceeding pro se, filed a complaint pursuant to 42 U.S.C. § 1983 on February 24, 2010, alleging that he has been discriminated against because he was fed chicken patties rather than chicken.

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge William M. Catoe for pretrial handling. The Magistrate Judge reviewed the complaint pursuant to the provisions of 28 U.S.C. §§ 1915, 1915A, and the Prison Litigation Reform Act of 1996. On April 2, 2010, the Magistrate Judge issued a Report and Recommendation in which he recommended that the complaint be dismissed for failure to state a claim upon which relief may be granted. Plaintiff filed no objections to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). The court is charged with making a de novo

determination of any portions of the Report and Recommendation 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 may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). 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).

The court has carefully reviewed the record and adopts the Report and Recommendation. Plaintiff’s complaint is dismissed without prejudice and without issuance and service of process. Moreover, the court finds Plaintiff’s complaint to be frivolous. Plaintiff’s complaint is deemed a strike pursuant to 28 U.S.C. § 1915(e)(2) and (g).

IT IS SO ORDERED.

/s/ Margaret B. Seymour
United States District Judge

Columbia, South Carolina

April 26, 2010.

NOTICE OF RIGHT TO APPEAL

Plaintiff is hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.