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

Ronald Lee McCauley, Plaintiff, vs. Lt. Riley, HFDC; Sgt. Rosemary Sanders, HFDC; Head Nurse Paula NLN, HFDC, Defendants.	)	C.A. No. 6:10-1700-HMH-KFM **OPINION AND ORDER**

This matter is before the court with the Report and Recommendation of United States Magistrate Judge Kevin F. McDonald, made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 of the District of South Carolina.[1] Ronald Lee McCauley ("McCauley"), a pretrial detainee proceeding pro se, brought this action pursuant to 42 U.S.C. § 1983, alleging that Defendants unlawfully denied him dental care. McCauley filed three motions for default judgment, contending that Defendants have failed to file a timely answer. In his Report and Recommendation, Magistrate Judge McDonald recommends denying McCauley's motions for default judgment. On November 22, 2010, McCauley filed objections to the magistrate judge's Report and Recommendation.

[1] The recommendation has no presumptive weight, and the responsibility for making a final determination remains with the United States District 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 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 with instructions. 28 U.S.C. § 636(b)(1).

Objections to the Report and Recommendation must be specific. Failure to file specific objections constitutes a waiver of a party's right to further judicial review, including appellate review, if the recommendation is accepted by the district judge. See United States v. Schronce, 727 F.2d 91, 94 & n.4 (4th Cir. 1984). In the absence of specific objections to the Report and Recommendation of the magistrate judge, this court is not required to give any explanation for adopting the recommendation. See Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983).

McCauley specifically objects to the magistrate judge's denial of his motion for default judgment, contending that service of Defendants' answer was untimely. (Objections, generally.) In support of his objection, McCauley claims that the cover letter from Defendants' attorney and the envelope containing Defendants' answer evidence that the answer was mailed on September 8, 2010, one day after the period authorized by the Federal Rules of Civil Procedure.[2] (Id. ¶¶ 6-9.) However, even if the court were to grant McCauley the benefit of assuming that Defendants' answer was served one day late, entry of default judgment against Defendants would be unwarranted. Rule 55 of the Federal Rules of Civil Procedure authorizes entry of default when a defendant "has failed to plead or otherwise defend" an action in accordance with the Federal Rules of Civil Procedure. Default judgments constitute a drastic remedy, and therefore, the Fourth Circuit has repeatedly admonished courts to adjudicate cases on their merits and resist entry of default judgment against a party. See Colleton Preparatory Acad., Inc. v. Hoover Universal, Inc., 616 F.3d 413, 417 & n.3 (4th Cir. 2010) (noting that "[t]his imperative arises in myriad procedural contexts, but its primacy is never doubted"). Here,

[2] McCauley does not dispute the magistrate judge's determination that the period for Defendants to file and serve their answer ended on September 7, 2010. Nor does McCauley dispute that Defendants properly filed their answer on September 7, 2010.

Defendants timely filed their answer and have signaled their intent to defend against McCauley's claims, making entry of default judgment improper. After a thorough review of the magistrate judge's Report and the record in this case, the court adopts Magistrate Judge McDonald's Report and Recommendation.

It is therefore

ORDERED that McCauley's motions for default judgment, docket numbers 20, 24, and 38, are denied.

IT IS SO ORDERED.

s/Henry M. Herlong, Jr.
Senior United States District Judge

Greenville, South Carolina
November 23, 2010