

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

Benjamin Jesse Jackson, III, #10060206)	Civil Action No. 6:10-3128-RMG-KFM
)	
Plaintiff,)	
)	
vs.)	ORDER
)	
Hill- Finklea Berkeley County Detention)	
Center; Sheriff H. Wayne Dewitt; Mr.)	
McElvogue; Mrs. McElvogue; Sgt. Sheets;)	
PFC. Menzie; PFC. Sports; Sgt. Jacumin.)	
)	
Defendants.)	
)	

In this *pro se* action Plaintiff contends that Defendants violated 42 U.S.C § 1983 and alleges claims for neglect, emotional distress, racial profiling, over-crowdedness, unsanitary housing, and “uncruel punishment”. As a result, this case was automatically referred to the United States Magistrate Judge for all pretrial proceedings pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and Local Rule 73.02(B)(2)(d), D.S.C. Plaintiff files this action *in forma pauperis* and thus the action is subject to review pursuant to 28 U.S.C §1915 (e)(2)(B). The Magistrate Judge issued a Report and Recommendation that Defendant Hill-Finklea Berkeley County Detention Center should be dismissed, with prejudice and without issuance and service of process. The Magistrate Judge advised Plaintiff of the procedures and requirements for filing objections to the Report and Recommendation and the serious consequences if he failed to do so. Plaintiff replied stating that he does not object to the Report and Recommendation. (Dkt. No. 20). As explained herein, this Court agrees with the Magistrate Judge’s recommendation and dismisses Defendant Hill-Finklea Berkeley County Detention Center.

LAW/ANALYSIS

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and responsibility for making a final determination remains with this Court. *Mathews v. Weber*, 423 U.S. 261, 270-71, 96 S.Ct. 549, 46 L.Ed.2d 483 (1976). This Court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objection is made, and this Court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate.” 28 U.S.C. § 636(b)(1). This Court may also “receive further evidence or recommit the matter to the magistrate with instructions.” *Id.* In the absence of specific objections to the Report and Recommendation, this Court is not required to give any explanation for adopting the recommendation. *Camby v. Davis*, 718 F.2d 198 (4th Cir. 1983).


This Court has reviewed the Report and Recommendation for any clear errors of law and has found none. Plaintiff names Hill-Finklea Berkeley County Detention Center as a Defendant. It is well settled that only “persons” may act under color of state law; therefore, a defendant in a § 1983 action must qualify as a “person.” The Hill-Finklea Berkeley County Detention Center is an inanimate object that cannot act under color of state law and therefore is not a “person” subject to suit under § 1983. *See Allison v. California Adult Auth.*, 419 F.2d 822, 823 (9th Cir. 1969)(California Adult Authority and San Quentin Prison not “person[s]” subject to suit under 42 U.S.C. § 1983); *Preval v. Reno*, 57 F.Supp.2d 307, 310 (E.D. Va. 1999)(“[T]he Piedmont Regional Jail is not a ‘person,’ and therefore not amenable to suit under 42 U.S.C. § 1983.”); *Brooks v. Pembroke City Jail*, 722 F. Supp. 1294,1301(E.D. N.C. 1989)(“Claims under § 1983 are directed at ‘persons’ and the jail is not a person amenable to suit.”); *Cf. Roach v. West Virginia Regional Jail and Correctional Facility*, 74 F.3d 46,48 (4th Cir. 1996).

Based on the above authority and the Record in this matter, the Court agrees with the Magistrate's Report and Recommendation. Thus, this Court dismisses Hill-Finklea Berkeley County Detention Center as a Defendant in this matter.

CONCLUSION

After a thorough review of the Record, Magistrate Judge's Report and Recommendation, and the relevant case law, this Court adopts the Magistrate Judge's Report and Recommendation and **dismisses** Hill-Finklea Berkeley County Detention Center with prejudice and without issuance and service of process.

AND IT IS SO ORDERED.


Richard Mark Gergel
United States District Court Judge

March 1, 2011
Charleston, South Carolina