

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

Dwayne Deleston,)	C/A No.: 6:11-cv-2968 DCN
)	
Plaintiff,)	<u>ORDER</u>
)	
vs.)	
)	
Federal Correctional Institution Estill)	
Warden, Mildred Rivera; Federal)	
Correctional Institution Estill Camp)	
Administration, Carlton; Lieutenant Yates;)	
Lieutenant Bowen; Lieutenant Vincent;)	
Lieutenant Buckler; and Chief of Security)	
Captain Norm,)	
)	
Defendants.)	
_____)	

This matter is before the court pursuant to plaintiff's Motion to Vacate the Order affirming the Report and Recommendation and to return filing fee filed on November 4, 2013 (ECF No. 43), and Motion to Amend the Amended Complaint filed on April 14, 2014 (ECF No. 45).

On January 17, 2012, an order was issued by the undersigned, affirming the Magistrate Judge's Report and Recommendation and dismissing the instant case without prejudice and without issuance and service of process. Plaintiff filed a Notice of Appeal of this order on February 1, 2012, and the Fourth Circuit Court of Appeals affirmed this court's decision on August 27, 2012. It is therefore

ORDERED that plaintiff's Motion to Vacate and Return Filing Fee (ECF NO. 43) and Motion to Amend the Amended Complaint (ECF No. 45) are **DENIED**.

AND IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read 'D. Norton', written in a cursive style.

David C. Norton
United States District Judge

April 15, 2014
Charleston, South Carolina