

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

Simon Allen, Jr.,	)	
	)	Civil Action No.: 6:15-cv-5108-RMG
Plaintiff,	)	
	)	
v.	)	
	)	<b>ORDER</b>
Captain Downey, Lt. Lark, and Lt. Butler,	)	
	)	
Defendants.	)	
_____	)	

This matter comes before the Court on the Report & Recommendation (R & R) of the Magistrate Judge. (Dkt. No. 9). On December 29, 2015, Plaintiff, a pre-trial detainee, filed a complaint against Defendants, who are all employees of the Greenwood County Detention Center. (Dkt. No. 1). The complaint alleges that Defendants denied plaintiff access to courts. On January 7, 2016, the Magistrate Judge entered an order directing the Clerk not to authorize service. (Dkt. No. 8). And on that same day, the Magistrate Judge issued an R & R recommending that the Court summarily dismiss the complaint with prejudice and without service of process. (Dkt. No. 9). Plaintiff subsequently moved to amend his complaint (Dkt. Nos. 11, 12), and filed an objection<sup>1</sup> to the R & R (Dkt. No. 13).


The Court finds the Magistrate Judge’s R & R to be a thorough summarization of the facts and application of those facts to the relevant law. However, Pursuant to Rule 15 of the Federal Rules of Civil Procedure, a party may amend its complaint once as a matter of course within 21 days of service. Accordingly, this Court construes Plaintiff’s motions (Dkt. Nos. 11, 12) as motions to amend pursuant to Rule 15, and **GRANTS** them. Plaintiff is ordered to file an

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<sup>1</sup> This objection does not address anything in the R & R. Instead, it “respectfully moves the Court for ‘immediate release’ for the unlawful arrest on Sept. 03, 2013.” (Dkt. No. 13 at 1). As stated in the R & R, actions filed pursuant to 28 U.S.C. § 1983 are not the proper release for seeking release from prison.

amended complaint within 14 days of this order. However, if Plaintiff fails to file an amended complaint within 14 days of this order, the Court will adopt the R & R as the order of the Court and dismiss the case with prejudice.

**AND IT IS SO ORDERED.**

  
Richard Mark Gergel  
United States District Court Judge

March 7, 2016  
Charleston, South Carolina