

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

Darell Andre Fuller,	)	
	)	
Plaintiff,	)	C.A. No. 6:16-993-HMH-KFM
	)	
vs.	)	
	)	<b>OPINION &amp; ORDER</b>
Dr. Jose Serrano, <i>Clinical Director,</i>	)	
<i>FCI Edgefield Health Service,</i>	)	
Dr. V. Loventh, a/k/a Dr. V. Loranth,	)	
<i>Clinical Director, FCI Williamsburg</i>	)	
<i>Health Service, and Dr. L. Berrios,</i>	)	
<i>Clinical Director FCI Bennettsville</i>	)	
<i>Health Service,</i>	)	
	)	
Defendants.	)	

This matter is before the court on 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.<sup>1</sup> Fuller, proceeding pro se, filed a civil rights action pursuant to Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics, 403 U.S. 388 (1971). Fuller alleges that he received inadequate medical care while he was incarcerated at six federal correctional institutions.

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<sup>1</sup> 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 (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).

On January 9, 2017, the Defendants filed a motion to dismiss. (Mot. Dismiss, ECF No. 93.) The magistrate judge issued Roseboro<sup>2</sup> orders on January 9, 2017, and February 13, 2017, directing Fuller to respond to the Defendants' motion to dismiss. Fuller did not file a response within the time to respond. Based on Fuller's failure to respond, Magistrate Judge McDonald recommended dismissing Fuller's complaint for lack of prosecution pursuant to Rule 41(b) of the Federal Rules of Civil Procedure. (Apr. 25, 2017 R&R 3, ECF No. 106.) On May 5, 2017, Fuller filed objections, which the court construed as an attempt to respond to the motion to dismiss. (May 5, 2017 Objs., ECF No. 110.) Subsequently, on May 10, 2017, the court declined to adopt the Report and ordered Fuller to respond to the motion to dismiss. (May 10, 2017 Order, ECF No. 113.) Fuller responded on May 31, 2017. (Resp. Opp'n Mot. Dismiss, ECF No. 116.) On June 12, 2017, Magistrate Judge McDonald issued a second Report and recommended dismissing Fuller's complaint as barred by the applicable statute of limitations. (Jun. 12, 2017 R&R 11, ECF No. 118.)

Fuller filed objections to the Report and Recommendation. 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).

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<sup>2</sup> Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975).

Upon review, the court finds that Fuller's objections are non-specific, unrelated to the dispositive portions of the magistrate judge's Report and Recommendation, or merely restate his claims. Accordingly, after review, the court finds that Fuller's objections are without merit. Therefore, 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 and incorporates it herein by reference.

It is therefore

**ORDERED** that Defendants' motion to dismiss, docket number 93, is granted.

**IT IS SO ORDERED.**

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

Greenville, South Carolina  
July 27, 2017

**NOTICE OF RIGHT TO APPEAL**

Plaintiff is hereby notified that he has the right to appeal this order within sixty (60) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.