

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

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|---|---|-------------------------------------|
| Jeffrey Neal Adams, |) | Civil Action No.: 6:16-cv-03448-RBH |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | ORDER |
| |) | |
| Ben Sander, Drew Walensky, and |) | |
| Family Dollar, |) | |
| |) | |
| Defendants. |) | |
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Plaintiff Jeffrey Neal Adams, a state prisoner proceeding pro se, filed this action pursuant to 42 U.S.C. § 1983 against the above-captioned Defendants. The matter is before the Court for a ruling on Plaintiff's objections to the Report and Recommendation ("R & R") of United States Magistrate Judge Jacquelyn D. Austin, who recommends granting Defendants' two pending motions and denying Plaintiff's two pending motions.¹ *See* R & R [ECF No. 54].

Standard of Review

The Magistrate Judge makes only a recommendation to the Court. The Magistrate Judge's recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). The Court must conduct a de novo review of those portions of the R & R to which specific objections are made, and it may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The Court must engage in a de novo review of every portion of the Magistrate Judge's report

¹ The Magistrate Judge issued the R & R in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02(B)(2) (D.S.C.).

to which objections have been filed. *Id.* However, the Court need not conduct a de novo review when a party makes only “general and conclusory objections that do not direct the [C]ourt to a specific error in the [M]agistrate [Judge]’s proposed findings and recommendations.” *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982). In the absence of specific objections to the R & R, the Court reviews only for clear error, *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005), and the Court need not give any explanation for adopting the Magistrate Judge’s recommendation. *Camby v. Davis*, 718 F.2d 198, 199–200 (4th Cir. 1983).

Discussion²

Plaintiff filed this § 1983 action against Defendants Ben Sanders, Family Dollar Stores of South Carolina, LLC, and Drew Walensky, alleging various federal and state claims stemming from his arrest, prosecution, and acquittal for a shoplifting charge in state court.³ *See* Verified Complaint [ECF No. 1]. Defendant Sanders answered and filed a motion for judgment on the pleadings, and Defendants Family Dollar and Walensky jointly answered and filed a motion for summary judgment. *See* ECF Nos. 21, 24, 25 & 30. In response to these motions, Plaintiff filed his own motion for judgment on the pleadings and motion for summary judgment. *See* ECF Nos. 43 & 47. The Magistrate Judge issued an R & R recommending that the Court grant Defendants’ motions and deny Plaintiff’s motions. *See* R & R at 10–14. Plaintiff filed timely objections to the R & R. *See* Pl.’s Objs. [ECF No. 56].

In his objections, Plaintiff states he “wish[es] to object . . . on the grounds of time restraints present by my incarceration.” Pl.’s Objs. at 1. He indicates he has requested various state court records,

² The R & R thoroughly summarizes the factual and procedural background of this case, as well as the applicable legal standards.

³ As the Magistrate Judge explains, Plaintiff is currently a state prisoner at Goodman Correctional Institution serving a sentence that is apparently unrelated to his complaint. *See* R & R at 2 (citing ECF No. 13).

including the “transcript of record from the jury trial” and statements given by Defendant Sander to the Honorable Mark William Hartle (a state municipal judge). *Id.* Plaintiff explains he is currently “awaiting” receipt of those records, which he needs “to support [his] allegations.” *Id.* Plaintiff further requests a “motion to revisit my claim at a later date with all much needed supporting evidence I am currently denied due to my present incarceration.” *Id.*

Plaintiff has failed to specifically object to any of the Magistrate Judge’s proposed findings and recommendations. Accordingly, the Court need only review the record for clear error and need not give any explanation for accepting the Magistrate Judge’s recommendations. *See Diamond*, 416 F.3d at 315; *Camby*, 718 F.2d at 199–200; *Orpiano*, 687 F.2d at 47. The Court discerns no clear error and will therefore adopt the R & R.

Additionally, the Court notes Plaintiff’s objections essentially seek an extension of time to complete discovery. However, Plaintiff previously filed a motion to compel indicating he was seeking to obtain the statements given by Defendant Sander to Judge Hartle. *See* ECF No. 35. The Magistrate Judge denied the motion to compel on March 13, 2017, *see* ECF No. 36, and Plaintiff did not file objections to the Magistrate Judge’s order. *See* Fed. R. Civ. P. 72(a) (permitting a party to file objections to a magistrate judge’s ruling on a nondispositive matter “within 14 days after being served with a copy” of the order); *Ceatham v. Ford Motor Co.*, 64 F.3d 656, 1995 WL 478021, at *5 (4th Cir. 1995) (unpublished table decision) (indicating a motion to compel is a nondispositive matter). Moreover, Plaintiff previously filed a motion for an extension of time to conduct discovery, and on March 30, 2017, the Magistrate Judge issued an order denying this motion. Plaintiff did not file Rule 72(a) objections to this order either.

Accordingly, the Court will overrule Plaintiff’s objections and adopt the R & R.

Conclusion

For the foregoing reasons, the Court overrules Plaintiff's objections and adopts and incorporates the R & R [ECF No. 54] by reference. Accordingly, the Court **GRANTS** Defendant Sanders' motion for judgment on the pleadings [ECF No. 25], **GRANTS** Defendants Family Dollar and Walensky's motion for summary judgment [ECF No. 30], and **DENIES** Plaintiff's motion for judgment on the pleadings [ECF No. 43] and motion for summary judgment [ECF No. 47]. The Court **DISMISSES** this action *with prejudice* and **DIRECTS** the Clerk to close this case.

IT IS SO ORDERED.

Florence, South Carolina
July 20, 2017

s/ R. Bryan Harwell
R. Bryan Harwell
United States District Judge