

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

Charles Stanley Bangert, Jr.,)
)
 Plaintiff,)
)
 v.)
)
 Jackie Awai *and* Southern Health,)
)
 Defendants.)
_____)

Civil Action No. 6:17-2551-RMG

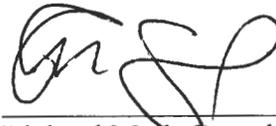
ORDER AND OPINION

This matter is before the Court on the Report and Recommendation of the Magistrate Judge, recommending summary dismissal of Defendant Southern Health from this § 1983 action. Plaintiff is a pretrial detainee at the Cherokee County Detention Center, charged with narcotics possession. Plaintiff’s allegations are as follows. While detained, Nurse Jackie Awai, an employee of Southern Health, tried to give him incorrect blood pressure medication that had not been prescribed for him. When he refused to take that medication, Nurse Awai placed him in solitary confinement where, due to high blood pressure, a panic attack caused him to pass out and hit his head, rendering him unconscious. He was then taken to a hospital, where he was told that his uncontrolled blood pressure nearly caused a heart attack. Since that incident, medical personnel at the detention center have retaliated by continuing to provide incorrect blood pressure medication while otherwise withholding medical care.

The Magistrate Judge recommends summary dismissal of Southern Health because “Southern Health cannot be sued under § 1983 because it is not a person.” (Dkt. No. 13 at 3.) The Court disagrees. Southern Health is Southern Health Partners, Inc., a Delaware corporation with its principal place of business in Tennessee that provides inmate medical care in jails and prisons. Corporations are persons for purposes of § 1983. *See Will v. Mich. Dep’t of State Police*, 491 U.S.

58, 69 (1989); *Monell v. Dep't of Soc. Servs. of City of N.Y.*, 436 U.S. 658, 687–88 (1978). In certain circumstances, a private corporation may be subject to suit under § 1983. *See, e.g., Lugar v. Edmondson Oil Co.*, 457 U.S. 922, 939, 102 S. Ct. 2744, 2754 (1982). The Court does not yet know whether such circumstances are present in this case, but it is not frivolous to assert that a private corporation providing medical care to inmates is a state actor under § 1983. *Cf. Richardson v. McKnight*, 521 U.S. 399, 413 (1997). *Sua sponte* dismissal of Southern Health, therefore, is inappropriate. The Court therefore **DECLINES TO ADOPT** the Report and Recommendation of the Magistrate Judge (Dkt. No. 13), and **RECOMMITS** this matter to the Magistrate Judge for service of process on Defendant Southern Health.

AND IT IS SO ORDERED.



Richard Mark Gergel
United States District Court Judge

November 6, 2017
Charleston, South Carolina