

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ANDERSON/GREENWOOD DIVISION

Joseph Lamar Smith, #326485,)
Plaintiff,) C.A. No.: 8:08-02932-RBH
vs.)
Jason Anders, Solicitor, Kershaw County;)
Glenn Rogers, Solicitor Kershaw County;)
Warren B. Giese, Solicitor, Richland)
County; Zack Atkinson, Kershaw County,)
Defendants.)

)

O R D E R

This matter is before the court for review of the Report and Recommendation of United States Magistrate Judge Bruce Howe Hendricks, made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this court. See Mathews v. Weber, 423 U.S. 261, 270-71 (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, and the court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. See 28 U.S.C. § 636(b)(1).

The Report and Recommendation was mailed to the plaintiff on August 28, 2008 along with a Notice regarding the right to file objections. The ten-day period for filing objections, not

including weekends and holidays, ended on September 12, 2008 and when three additional days are added for mailing, the deadline for filing objections was September 15, 2008. Plaintiff's objections were filed with the Clerk on September 19, 2008. Under the prison mailbox rule, the court will consider the objections filed on the date they were delivered to the prison mailroom, which was September 18, 2008. However, the objections should not be considered since they were not timely filed. In the absence of 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). In addition, the Court has reviewed the objections and finds them to be without merit.

After a thorough review of the Report and Recommendation and the record in this case, the court adopts Magistrate Judge Hendricks' Report and Recommendation and incorporates it herein. It is therefore

ORDERED that this action is hereby **DISMISSED** without prejudice and without issuance and service of process.

IT IS SO ORDERED.

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

Florence, South Carolina
September 26, 2008