

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

Hayward L. Rogers, #278510,)
Plaintiff,) C/A No. 8:08-3569-MBS
vs.)
Joyce Young, et al,)
Defendants.)

)

O R D E R

Plaintiff Hayward L. Rogers is an inmate in custody of the South Carolina Department of Corrections. He currently is housed at the McCormick Correctional Institution in McCormick, South Carolina. Plaintiff, proceeding pro se, originally filed this action in state court, alleging deprivation of his constitutional rights. Defendants removed this case on October 22, 2008 on the grounds of federal question jurisdiction. See 28 U.S.C. §§ 1331, 1441.

This matter currently is before the court on motion for voluntarily dismissal filed by Plaintiff on November 7, 2008 (Entry 12). In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Bruce H. Hendricks for pretrial handling. On November 12, 2008, the Magistrate Judge issued a Report and Recommendation in which she recommended that Plaintiff's motion be treated as a voluntary dismissal without prejudice pursuant to Fed. R. Civ. P. 41(a)(1). No party filed an objection to the Report.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). The court is charged with making a de novo determination of any portions of the Report and Recommendation to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the

Magistrate Judge or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of objections to the Report, this court is not required to give any explanation for adopting the recommendation. Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983).

The court adopts the Report and Recommendation and incorporates it herein by reference. The court construes Plaintiff's motion as a motion for voluntary dismissal pursuant to Fed. R. Civ. P. 41(a)(1). Plaintiff's motion to dismiss is **granted**, without prejudice.

IT IS SO ORDERED.

/s/ Margaret B. Seymour
United States District Judge

Columbia, South Carolina

December 9, 2008