

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

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Steven Louis Barnes, #327117, )  
)  
Petitioner, )  
)  
v. )  
)  
United States District Judge Margaret )  
B. Seymour; Magistrate Judge Thomas )  
E. Rogers; and Magistrate Judge Paige )  
J. Gossett, )  
)  
Respondents. )  
\_\_\_\_\_ )

Civil Action No. 8:09-2616-SB

**ORDER**

This matter is before the Court upon Steven Louis Barnes' pro se petition for a writ of mandamus. In his petition, Barnes asserts that the Respondents violated his rights and discriminated against him based on his hypertension in connection with two other civil actions filed by him, and that they unfairly failed to appoint counsel for him in those two civil actions. On November 10, 2009, Magistrate Judge Bruce Howe Hendricks issued a report and recommendation ("R&R") in accordance with 28 U.S.C. § 636 and the Local Civil Rules for this district. In the R&R, the Magistrate Judge determined that the Respondents were immune from the Petitioner's suit, as they were acting in their official capacity and had jurisdiction over the Petitioner's other civil cases. In addition, the Magistrate Judge noted that the Petitioner has filed his petition for mandamus in the wrong court. Ultimately, the Magistrate Judge recommended that the Court dismiss the Petitioner's case without prejudice and without issuance and service of process. The Magistrate Judge also recommended that the Court deem the dismissal a "strike" for purposes of the "three strikes" rule of 28 U.S.C. § 1915(g).

The Petitioner filed timely objections to the R&R, asserting that the Magistrate Judge acted without authority, that the Respondents are not entitled to judicial immunity, and that he filed his petition in good faith.

Here, after a thorough review of the record,<sup>1</sup> the Court finds that the Magistrate Judge accurately summarized the facts and applied the correct principles of law. Moreover, the Court finds that the Petitioner's objections are without merit. Accordingly, the Court adopts the R&R as the order of the Court and overrules the Plaintiff's objections. Therefore, it is hereby

**ORDERED** that the Petitioner's complaint is dismissed without prejudice and without issuance and service of process, and this dismissal is deemed a "strike" for purposes of the "three strikes" rule of 28 U.S.C. § 1915(g).

**IT IS SO ORDERED.**

#2

  
The Honorable Sol Blatt, Jr.  
Senior United States District Judge

June 3, 2010  
Charleston, South Carolina

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<sup>1</sup> The Honorable Margaret B. Seymour, a named party in this action, transferred this case to the undersigned for a final decision on April 26, 2010.