

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

Brandon Wallace,)	C/A NO. 8:10-2856-CMC-JDA
)	
Plaintiff,)	
)	
-versus-)	OPINION and ORDER
)	
Levern Cohen, individually and official)	
capacity, Warden of Ridgeland Correctional)	
Institution; and John Ozmint, individual and)	
official capacity, Director of SCDC,)	
)	
Defendants.)	
)	

This matter is before the court on Plaintiff's *pro se* complaint alleging violations of 42 U.S.C. § 1983.

In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02 (B)(2)(d), DSC, this matter was referred to United States Magistrate Judge Jaquelyn D. Austin for pre-trial proceedings and a Report and Recommendation ("Report"). On September 27, 2011, the Magistrate Judge issued a Report recommending that Defendants' motion for summary judgment be granted and this matter dismissed with prejudice. The Magistrate Judge advised Plaintiff of the procedures and requirements for filing objections to the Report and the serious consequences if he failed to do so. On October 6, 2011, Plaintiff filed a response to the Report.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *See Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of any portion of the Report of the Magistrate Judge 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 recommit the matter to the Magistrate Judge with instructions. *See* 28

U.S.C. § 636(b). The court reviews the Report only for clear error in the absence of an objection. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.”) (citation omitted).

In his unsworn response to the Report, Plaintiff contends that he mailed a response to Defendants’ motion for summary judgment on July 15, 2011. Plaintiff does not provide a copy of the memorandum and affidavit he contends he mailed, nor does he provide other material to support his claim (such as a copy of the legal mail log from the mailroom of the institution showing his submission of the material for mailing). Nor does Plaintiff outline any of his arguments or evidence which he included in his alleged response to Defendants’ summary judgment motion. Therefore, the court finds Plaintiff’s response fails to provide a basis on which to extend the time for him to provide a proper response to Defendants’ motion.

After reviewing the record of this matter, the applicable law, and the Report and Recommendation of the Magistrate Judge, the court agrees with the conclusions of the Magistrate Judge. Accordingly, the court adopts and incorporates the Report and Recommendation by reference in this Order.

Defendants’ motion for summary judgment is **granted** and this matter is dismissed with prejudice.

IT IS SO ORDERED.

s/ Cameron McGowan Currie
CAMERON MCGOWAN CURRIE
UNITED STATES DISTRICT JUDGE

Columbia, South Carolina
October 21, 2011