

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

Mario Escalante,)	Civil Action No. 8:15-177-MGL
)	
)	Plaintiff,
)	
)	v.
)	
)	<u>ORDER</u>
)	
Anderson County Sheriff's Department, <i>et al.</i> ,)	
)	
)	Defendants.
)	

Plaintiff Mario Escalante, (“Plaintiff”), brings the instant action pursuant to 42 U.S.C. § 1983 and South Carolina state law. (ECF No. 1). In accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02(B)(2), D.S.C., this matter was referred to United States Magistrate Judge Jacquelyn D. Austin for pre-trial handling. On July 29, 2016, the Magistrate Judge issued a Report and Recommendation, (“the Report”), (ECF No. 92), recommending that this Court grant the Motion for Summary Judgment of Defendants Anderson County Sheriff’s Department, Sergeant Andrew R. Hyslop, Sheriff John Skipper, and Deputy Brandon Surratt (collectively, “the Sheriff’s Department Defendants”) (ECF No. 45) and the Motion for Summary Judgment of Defendants David L. Rodgers and Janice W. Rodgers, both d/b/a Whitehall Express Mart, (collectively, “the Rogers Defendants”) (ECF No. 47). Plaintiff submitted a timely Objection to the Report on August 15, 2016, (ECF No. 95), and the matter is now ripe for review by this Court.

The Magistrate Judge makes only a recommendation to the 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). 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.” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005).

In light of the standards set forth above, the Court has reviewed, *de novo*, the entire record in this case, including, in particular, the Magistrate Judge’s Report and Plaintiff’s Objection. The Court has considered each of Plaintiff’s objections and finds that none of Plaintiff’s arguments effectively counter the reasoned conclusions of the Magistrate Judge, including the Report’s central conclusions: (1) that Plaintiff has produced no evidence to support his entirely speculative contention that shop owner defendant David Rodgers manufactured the shoplifting allegation against Plaintiff in order to shield his store from possible punishment for a Sunday alcohol sale ordinance violation; and (2) that probable cause ultimately supported Plaintiff’s shoplifting arrest.

Based upon all of the forgoing, the Court concurs with the reasoning of the Magistrate Judge and adopts the Report and incorporates it herein by reference, (ECF No. 92), overruling Plaintiff’s Objection. (ECF No. 95). Accordingly, the Sheriff Department Defendants’ Motion for Summary Judgment, (ECF No. 45), and the Rodgers Defendants’ Motion for Summary Judgment, (ECF No. 47), are both **GRANTED**, and this action is **DISMISSED**.

IT IS SO ORDERED.

s/Mary G. Lewis
United States District Judge

August 16, 2016
Columbia, South Carolina