

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

Adam Lee Welch,

Plaintiff,

v.

Holly Scaturo, Director; Mrs. Kimberly Pohlchuk, B.M.C. Program Director; Ms. Cynthia Helff, B.M.C.; Dr. Kelly Gothard; Dr. Gordon Brown, Psychologist; Dr. Rozanna Trass, Psychologist; Dr. Amy Swan, Psychologist; Ms. Marie Gehle, Evaluator; Dr. Donna Schwartz-Watts, Psychologist; Capt. Frank Abney, P.S.O. Supervisor; Mr. Galen Sanders, Chief Nursing Administrator; Mr. Harold Alexander, R.N.; Ms. Charlene Hickman, R.N.; Dr. John McGill, Director of Department of Mental Health; Mr. Allen Wilson, Attorney General,

Defendants.

C/A No. 8:16-2313-JFA-JDA

ORDER

On or about June 27, 2016, Adam Lee Welch (“Plaintiff”) filed this action pursuant to 42 U.S.C. § 1983 against Defendants. In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2), D.S.C., the case was referred to the Magistrate Judge. The majority of Defendants were served between August 3, 2016, and August 4, 2016; however, Amy Swan was served on August 10, 2016, and Charlene Hickman was never served. ECF Nos. 22, 23, 27, 29, 51. On August 23, 2016, all Defendants—except Defendants Wilson, Swan, and Hickman—filed an answer. ECF No. 30. On August 25, 2016, Defendant Wilson filed a motion to dismiss for failure to state a claim. ECF No. 33. On September 1, 2016, Defendant Swan filed a motion to dismiss for failure to state a claim. ECF No. 37. After each motion to dismiss, the Magistrate Judge issued an order pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), explaining the

importance of Defendant Wilson and Defendant Swan's motions to dismiss and providing Plaintiff with thirty-four days to file adequate responses in opposition to the motions. ECF No. 35, 38. On September 14, 2016, Plaintiff filed a motion to dismiss his suit. ECF No. 42. All Defendants, who previously answered, filed a response agreeing to dismissal of the suit. ECF No. 45.

The Magistrate Judge assigned to this action¹ prepared a thorough Report and Recommendation ("Report") and opines that this Court should grant Plaintiff's motion to dismiss and deem the remaining motions moot.² ECF No. 51. The Report sets forth in detail the relevant facts and standards of law on this matter, and this Court incorporates those facts and standards without a recitation. The parties were advised of their right to object to the Report, which was entered on the docket on December 6, 2016. ECF Nos. 51–52. The Magistrate Judge gave the parties until December 20, 2016, to file objections; however, no objections were filed. *Id.* Thus, this matter is ripe for the Court's review.

The Court is charged with making a de novo determination of those portions of the Report 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 to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b)(1). In the absence of specific objections to the Report of the Magistrate Judge, this Court is not required to give an explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983).

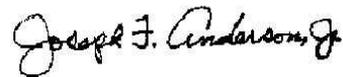
¹ The Magistrate Judge's review is made in accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2) (D.S.C.). The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261 (1976).

² Thus, Plaintiff's "motion for removal" of a policy allegedly implemented by Defendants (ECF No. 25) and both of Defendant Wilson and Defendant Swan's motions to dismiss for failure to state a claim would be rendered moot (ECF Nos. 33, 37).

After carefully reviewing the applicable laws, the record in this case, as well as the Report, this Court finds the Magistrate Judge's recommendation fairly and accurately summarizes the facts and applies the correct principles of law. Accordingly, the Court adopts the Report and Recommendation (ECF No. 51) and grants Plaintiff's motion to dismiss his case (ECF No. 42). Furthermore, Plaintiff's "motion for removal" (ECF No. 25), Defendant Wilson's motion to dismiss for failure to state a claim (ECF No. 33), and Defendant Swan's motion to dismiss for failure to state a claim (ECF No. 37) are deemed moot.

IT IS SO ORDERED.

January 19, 2017
Columbia, South Carolina



Joseph F. Anderson, Jr.
United States District Judge