

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

|                     |   |                                     |
|---------------------|---|-------------------------------------|
| Joshua Nelson,      | ) |                                     |
|                     | ) | Civil Action No.: 8:16-cv-03453-JMC |
| Plaintiff,          | ) |                                     |
|                     | ) |                                     |
| v.                  | ) | <b>ORDER</b>                        |
|                     | ) |                                     |
| Officer D. Gilmore, | ) |                                     |
|                     | ) |                                     |
| Defendant.          | ) |                                     |
| _____               | ) |                                     |

This matter is before the court upon review of the Magistrate Judge’s Report and Recommendation (“Report”), filed on September 25, 2017 (ECF No. 58), recommending that Plaintiff Joshua Nelson’s (“Plaintiff”) case be dismissed pursuant to Fed. R. Civ. P. 41(a)(2), as he moved to voluntarily dismiss his case. (ECF No. 55.)

The Magistrate Judge’s Report is made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02(B)(2) for the District of South Carolina. The Magistrate Judge makes only a recommendation to this court, which has no presumptive weight. The responsibility to make a final determination remains with this court. *See Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). The court is charged with making a *de novo* determination of those portions of the Report to which specific objections are made.

The parties were advised of their right to file objections to the Report. (ECF No. 58-1.) However, neither party filed any objections to the Report.

In the absence of objections to the Magistrate Judge’s Report, this court is not required to provide an explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Rather, “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) (*quoting* Fed. R. Civ. P. 72 advisory committee’s note). Furthermore, failure to file specific written objections to the Report results in a party’s waiver of the right to appeal from the judgment of the District Court based upon such recommendation. 28 U.S.C. § 636(b)(1); *see Wells v. Shriners Hosp.*, 109 F.3d 198, 200 (4th Cir. 1997) (“[t]he Supreme Court has authorized the waiver rule that we enforce. . . . ‘[A] court of appeals may adopt a rule conditioning appeal, when taken from a district court judgment that adopts a magistrate’s recommendation, upon the filing of objections with the district court identifying those issues on which further review is desired.’”) (citing *Thomas v. Arn*, 474 U.S. 140, 155 (1985)).

After a thorough review of the Report and the record in this case, the court finds the Report provides an accurate summary of the facts and law. The court **ACCEPTS** the Magistrate Judge’s Report and Recommendation (ECF No. 58) and Plaintiff’s Motion to Dismiss (ECF No. 55) is **GRANTED**. Plaintiff’s Motion to Dismiss and Remand (ECF No. 44) is therefore **MOOT**. Plaintiff’s Complaint is dismissed without prejudice.

**IT IS SO ORDERED.**



United States District Judge

October 30, 2017

Columbia, South Carolina