



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 will review 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 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)).

The Magistrate Judge recommends granting Defendants’ Motion for Summary Judgment with respect to Plaintiff’s claims against the South Carolina Department of Corrections (“SCDC”), her claims against Stirling and Barrett in their individual capacities, and her claim that she is being denied medical treatment in violation of the Eighth Amendment. The Magistrate Judge further recommends finding as moot Plaintiff’s claims for injunctive relief against Barrett in her official capacity. No party has filed objections to these recommendations. After considering the record in this case, the applicable law, and the Report of the Magistrate Judge, the Court finds no clear error and agrees with the recommendation of the Magistrate Judge.

The Magistrate Judge recommends denying Defendants' Motion for Summary Judgment with respect to the remaining claims for injunctive relief against Stirling in his official capacity. The Court notes the Magistrate Judge's well-reasoned analysis with respect to these claims. In their objections, Defendants provide additional information, including affidavits demonstrating a significant change in the status of Plaintiff within SCDC. It appears that Plaintiff has now been properly classified and that the SCDC staff is engaging with Plaintiff to make necessary accommodations. However, it is unclear whether all of Plaintiff's remaining claims for injunctive relief have been addressed. The Court is of the opinion that additional briefing on this issue would be beneficial in light of the ongoing changes to Plaintiff's housing and treatment. Accordingly, Defendants' Motion for Summary Judgment is denied with leave to refile with respect to the remaining claims for injunctive relief against Stirling in his official capacity.

### **CONCLUSION**

Wherefore, based upon the foregoing, the claims against Barrett in her official capacity are **DISMISSED** as moot. The Motion for Summary Judgment [90] is **GRANTED in part** and **DENIED in part with leave to refile**. The Motion is granted as to Plaintiff's claim against all Defendants that she is being denied medical treatment in violation of the Eighth Amendment, granted as to all claims against the South Carolina Department of Corrections, granted as to all claims against Stirling and Barrett in their individual capacities, and denied with leave to refile as to all other claims for injunctive relief against Stirling in his official capacity. Defendants' Motion for Extension of Time [114] is **DISMISSED** as moot. In the event that Defendant Stirling intends to refile his Motion for

Summary Judgment with respect to the remaining claims, he is directed to do so within 45 days.

IT IS SO ORDERED.

s/ Donald C. Coggins, Jr.  
United States District Judge

February 6, 2019  
Spartanburg, South Carolina

**NOTICE OF RIGHT TO APPEAL**

The parties are hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.