

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

Jeremy Kitchens,)	
)	C/A No. 8:17-212-MBS
Plaintiff,)	
)	
vs.)	
)	OPINION AND ORDER
State of South Carolina,)	
)	
Defendant.)	
_____)	

Plaintiff Jeremy Kitchens, proceeding pro se and in forma pauperis, filed a complaint on January 23, 2017, alleging that he was indicted in state court on May 4, 2015, arrested on May 13, 2015, and currently is detained under house arrest. Plaintiff contends that his constitutional right to a speedy trial has been violated, and that his due process rights have been violated because the prosecution knowingly suppressed exculpatory evidence and testimony at the preliminary hearing. Thus, Plaintiff brings this action pursuant to 42 U.S.C. § 1983.

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Jacquelyn D. Austin for pretrial handling. The Magistrate Judge reviewed the complaint pursuant to the provisions of 28 U.S.C. § 1915. The Magistrate Judge determined that Defendant State of South Carolina is not a “person” within the meaning of § 1983. In addition, the Magistrate Judge determined that the court should abstain from considering Plaintiff’s claims under Younger v. Harris, 401, U.S. 37, 43-44 (1971), which provides that the federal court should not interfere with state criminal proceedings except in extraordinary circumstances not present here. Accordingly, the Magistrate Judge recommended that the within action be summarily dismissed without prejudice and without issuance and service of process.

Plaintiff filed no objections to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). This court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the Magistrate Judge. 28 U.S.C. § 636(b)(1). This court may also receive further evidence or recommit the matter to the Magistrate Judge with instructions. Id. 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).

The court has thoroughly reviewed the record. The court concurs in the Report and Recommendation and incorporates it herein by reference. Plaintiff’s complaint is summarily dismissed without prejudice and without issuance and service of process.

IT IS SO ORDERED.

/s/ Margaret B. Seymour
Senior United States District Judge

Columbia, South Carolina

March 30, 2017

NOTICE OF RIGHT TO APPEAL

Plaintiff is hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.