

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

Tori Morton,)	Civil Action No. 8:17-1949-BHH
)	
Plaintiff,)	
)	
vs.)	ORDER AND OPINION
)	
City of Seneca Police Department, Mark)	
Tiller, John Covington,)	
)	
Defendants.)	
_____)	

Plaintiff Tori Morton (“Plaintiff”), through counsel, brought this civil action pursuant to 42 U.S.C. §§ 1983 and 1985, along with allegations of negligent hiring, training and supervision, and intentional infliction of emotional distress. (ECF. No. 1.) In accordance with 28 U.S.C. § 636(b)(1)(B) and Local Rule 73.02 for the District of South Carolina, this matter was referred to United States Magistrate Judge Jacquelyn D. Austin, for pretrial handling. The matter is now before this Court for review of the Report and Recommendation (“Report”) issued by the Magistrate Judge on April 18, 2018. (ECF No. 34.) In her Report, the Magistrate Judge recommends that the Court partially grant Defendant’s motion to dismiss (ECF No. 30) with respect to Plaintiff’s §§ 1983 and 1985 claims, and deny the motion with respect to Plaintiff’s intentional infliction of emotional distress (“IIED”) claim. Neither Defendants nor Plaintiff have filed any Objections.

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 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).

After a careful review of the record, the applicable law, and the Report of the Magistrate Judge, the Court finds no clear error. Accordingly, the Court ADOPTS and incorporates the Report (ECF No. 34) by reference into this Order. It is therefore ORDERED that Defendant’s motion to dismiss (ECF No. 30) is partially granted with respect to Plaintiff’s §§ 1983 and 1985 claims, and denied with respect to Plaintiff’s IIED Claim. The §§ 1983 and 1985 claims are dismissed *without prejudice*, and Plaintiff may move the Court to amend her complaint. This matter is returned to the Magistrate Judge for further pretrial proceedings.

IT IS SO ORDERED.

/s/Bruce Howe Hendricks
United States District Judge

August 9, 2018
Greenville, South Carolina

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified that any right to appeal this Order is governed by Rules 3 and 4 of the Federal Rules of Appellate Procedure.