Martin v. Eagleton et al Doc. 41



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

ROGER MARTIN,	§	
	§	
Plaintiff,	§	
	§	
VS.	§	
	§	Civil Action No. 8:17-02159-MGL-JDA
WARDEN WILLIE EAGLETON, KATURAH	§	
GAUSE, and MR. BETHEA,	§	
	§	
Defendants.	§	
	§	

## ORDER ADOPTING THE REPORT AND RECOMMENDATION AND DISMISSING THE COMPLAINT WITH PREJUDICE

This action arises under 42 U.S.C. § 1983. Plaintiff is proceeding pro se. The matter is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge suggesting this action be dismissed for failure to prosecute under Federal Civil Procedure Rule 41(b). The Report was made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). 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 with instructions. 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed the Report on January 31, 2018, ECF No. 38, but Plaintiff

failed to file any objections to the Report. "[I]n 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). Moreover, a failure to object waives appellate review. Wright v.

Collins, 766 F.2d 841, 845-46 (4th Cir. 1985).

After a thorough review of the Report and the record in this case pursuant to the standard

set forth above, the Court adopts the Report and incorporates it herein. Therefore, it is the

judgment of the Court this action is **DISMISSED WITH PREJUDICE** under Rule 41(b) for

failure to prosecute.

IT IS SO ORDERED.

Signed this 2nd day of March 2018 in Columbia, South Carolina.

s/ Mary Geiger Lewis

MARY GEIGER LEWIS

UNITED STATES DISTRICT JUDGE

\*\*\*\*

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this Order within thirty days from

the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.

2