

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
ANDERSON/GREENWOOD DIVISION

Julius Allen Munn,)	C/A No. 8:17-cv-2191-DCC
)	
Plaintiff,)	
)	
vs.)	
)	ORDER
South Carolina Department of Corrections, Christopher Lagasse, Elaine Delaney,)))	
Defendants.)	

This matter is before the Court on Plaintiff's Complaint alleging violations of civil rights pursuant to 42 U.S.C. § 1983 and various other claims. ECF No. 1. Defendants filed a Partial Motion to Dismiss on November 9, 2017. ECF No. 16. Plaintiff, represented by counsel, filed a Response in Opposition to the Motion, and Defendants filed a Reply. ECF Nos. 20, 22. This Motion is now ripe for resolution.

In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2), (D.S.C.), this matter was referred to United States Magistrate Judge Jacquelyn D. Austin for pre-trial proceedings and a Report and Recommendation ("Report"). On May 3, 2018, the Magistrate Judge issued a Report recommending that the Partial Motion to Dismiss be granted in part and denied in part. ECF No. 29. The Magistrate Judge advised the parties of the procedures and requirements for filing objections to the Report. Plaintiff filed a Response in Support of the Report, and Defendants did not file a response.

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 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)).

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 Report’s recommendation that the Partial Motion to Dismiss be granted in part and denied in part. Accordingly, the Court adopts the Report by reference in this Order with respect to its discussion of the Partial Motion to Dismiss. Defendant’s Motion is granted with respect to Plaintiff’s gross negligence/recklessness cause of action and Plaintiff’s intentional infliction of emotional distress claim. Defendant’s Motion is denied with respect to Plaintiff’s claim pursuant to the Americans with Disabilities Act and Plaintiff’s § 1983 claim.

IT IS SO ORDERED.

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

June 13, 2018
Spartanburg, South Carolina