

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

Brian Joseph Stoltie,
Plaintiff,
vs.
County of Anderson; County of Greenville; Anderson County Sheriff; Greenville County Sheriff; John Doe; Michael Sloan; D. Ledbetter; James Berggrun; Mr./Ms. Kelly; Mr./Ms. McCoy; Mr. Burdine; Timothy McCarley; Robert Smith; Brandon Brewer; J.T. Bowers; Greg Hayden; Cassie Darnell; Heath Davis; Johnny Chandler; Christopher Sellars; Jonathan Velez; Micaela Andres Tomas; Et. Al. Defendants 1-100,
Defendants.

Civil Action No. 8:21-cv-3876-TMC

ORDER

Plaintiff Brian Joseph Stoltie, a state prisoner in Pennsylvania who is proceeding pro se in this litigation, filed this action pursuant to 42 U.S.C. § 1983. (ECF Nos. 1). In accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02(B)(2)(e) (D.S.C.), this matter was referred to a magistrate judge for all pretrial proceedings. Now before the court is the magistrate judge’s Report and Recommendation (“Report”), recommending that all of Plaintiff’s claims except for those against Defendants Timothy McCarley and Greg Hayden be dismissed without prejudice and without issuance and service of process. (ECF No. 9 at 11).

On February 9, 2022, the Report was mailed to Plaintiff at the address he provided the court. (ECF No. 12). Plaintiff was advised of his right to file specific objections to the Report and of the potential consequences for failing to do so. (ECF No. 9 at 12). Plaintiff’s objections to the

Report were due on February 22, 2022. On February 22, 2022, the court received Plaintiff's motion seeking an extension of 60 days to file objections to the Report. (ECF No. 18). Plaintiff did not articulate any reason to support such a generous extension of time. Nonetheless, on April 5, 2022, out of an abundance of caution, the court granted Plaintiff an extension of time, in addition to the fifty-six days that had passed since the issuance of the Report, to file objections to the Report until April 18, 2022. (ECF No. 32). Despite the extension of time, Plaintiff has not filed objections to the Report and the time for doing so has now expired.

The magistrate judge's recommendation has no presumptive weight, and the responsibility for making a final determination remains with the United States District Court. *Wimmer v. Cook*, 774 F.2d 68, 72 (4th Cir. 1985) (quoting *Mathews v. Weber*, 423 U.S. 261, 270–71 (1976)). Nevertheless, “[t]he district court is only required to review *de novo* those portions of the report to which specific objections have been made, and need not conduct *de novo* review ‘when a party makes general and conclusory objections that do not direct the court to a specific error in the magistrate judge’s proposed findings and recommendations.’” *Farmer v. McBride*, 177 Fed. App’x 327, 330–31 (4th Cir. April 26, 2006) (quoting *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982)). Thus, “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 & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 Advisory Committee’s note). The court may accept, reject, or modify, in whole or in part, the recommendation made by the magistrate judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1). However, in the absence of specific objections to the Report and Recommendation, this Court is not required to give any explanation for adopting the recommendation. *Greenspan v. Brothers Prop. Corp.*,

103 F. Supp. 3d 734, 737 (D.S.C. 2015) (citing *Camby v. Davis*, 718 F.2d 198, 199–200 (4th Cir. 1983)).

The court has closely reviewed the Report and, finding no clear error, the court agrees with, and wholly adopts, the magistrate judge’s findings and recommendations in the Report (ECF No. 9), which is incorporated herein by reference. Accordingly, all of Plaintiff’s claims **except for** those against Defendants Timothy McCarley and Greg Hayden are **DISMISSED** without prejudice and without issuance and service of process. All other matters in this case remain with the magistrate judge for handling of pretrial proceedings in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02(B)(2)(e) (D.S.C.).

IT IS SO ORDERED.

s/Timothy M. Cain
United States District Judge

Anderson, South Carolina
April 25, 2022

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.