

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

Donald James Hurlbert,	)	C.A. #2:09-0241-PMD
	)	
Plaintiff,	)	
	)	
vs.	)	<b><u>ORDER</u></b>
	)	
State of South Carolina,	)	
	)	
Defendant.	)	
_____	)	

This matter is before the court upon the magistrate judge's recommendation that the above named matter be dismissed. Because plaintiff is proceeding pro se, this matter was referred to the magistrate judge.<sup>1</sup>

A review of the record indicates that the magistrate judge's report recommends that plaintiff's case be dismissed without prejudice and without issuance and service of process. On February 23, 2009, plaintiff filed objections to the report and recommendation, as well as a motion to amend complaint. This being the case, the court declines to conduct a *de novo* review of the report and recommendation at this time and refers the case back to the magistrate judge for further review and consideration based upon plaintiff's motion to amend. Now therefore,

**IT IS ORDERED** that the within matter is herewith referred back to Magistrate Judge Bristow Marchant for further consideration consistent with this order.

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<sup>1</sup>Pursuant to the provisions of Title 28 United States Code, § 636(b)(1)(B), and Local Rule 73.02(B)(2)(e), D.S.C., the magistrate judge is authorized to review all pretrial matters in such *pro se* cases, and submit findings and recommendations to this Court.

**AND IT IS SO ORDERED.**

  
\_\_\_\_\_  
PATRICK MICHAEL DUFFY  
United States District Judge

March 5, 2009  
Charleston, South Carolina