

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

James P. Moody # 266364,)	C/A NO. 9:10-1209-CMC-BM
)	
Plaintiff,)	
)	OPINION and ORDER
v.)	
)	
S.C. Dept. of Corrections, Jon E. Ozmint)	
(Director of SCDC Pursuant to § 24-1-220);)	
Officer Lt. J. Martin, night shift Lt. at)	
Evans Correctional Institution, In their)	
Individual Capacities, and In their Official)	
Capacities,)	
)	
Defendants.)	
_____)	

This matter is before the court on Plaintiff’s *pro se* complaint which raises claims pursuant to 42 U.S.C. § 1983. The matter was removed to this court by Defendants pursuant to 28 U.S.C. § 1441(c).

In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02 (B)(2)(d), DSC, this matter was referred to United States Magistrate Judge Bristow Marchant for pre-trial proceedings and a Report and Recommendation. On July 29, 2010, the Magistrate Judge issued an Order recommending that the federal claims in Plaintiff’s complaint be dismissed with prejudice by consent and that the remaining state law causes of action be remanded to the Marlboro County Court of Common Pleas. The Magistrate Judge advised the parties of the procedures and requirements for filing objections to the Order, as the Magistrate Judge determined it was a “non-dispositive” order and therefore reviewable under the “clearly erroneous” standard of Federal Rule of Civil Procedure 72(a). On August 12, 2010, Defendants objected to the Magistrate Judge’s Order.

After reviewing Defendants' stated objections, the record of this matter, the applicable law, and the Order of the Magistrate Judge, the court determines that Magistrate Judge Marchant's order was not clearly erroneous or contrary to law.

To the extent Defendants contend that the substance of Plaintiff's claims contain federal causes of action, Defendants essentially argue an anticipatory defense. However, Plaintiff has specifically disavowed any federal claim and states that the only claims he now asserts in this suit are "all state issue[s] unde[r] South Carolina Code of Law 15-78-10, et. seq." Mot. at 1 (Dkt. #13, filed June 3, 2010). *See also* Dkt. # 14 (Notice withdrawing all federal claims).

Because Plaintiff has specifically abandoned any federal claims, it is in this court's discretionary authority to remand this matter to state court. 28 U.S.C. § 1367(c)(3).

As noted by the Fourth Circuit,

The exercise of discretion in these circumstances involves two overlapping decisions ... whether to continue exercising federal jurisdiction over pendent claims and whether to remand the case to State court. Section 1337(c) lists factors to inform the decision of whether to exercise federal jurisdiction over pendent State claims, such as whether the State claims involve novel or complex issues of State law; whether the State law claims predominate; whether the federal claims justifying the court's jurisdiction remains [sic] in the case; or other compelling reasons. And when the exercise of this discretion involves the additional question of whether to remand the case to State court, the federal court should consider "principles of economy, convenience, fairness, and comity" and whether the efforts of a party in seeking remand amount to a "manipulative tactic."

Hinson v. Norwest Financial South Carolina, Inc., 239 F.3d 611, 617-18 (4th Cir. 2001) (internal citation omitted).

Plaintiff has dismissed his federal causes of action. Defendants have presented no compelling reason – other than their continued assertion that the "substance of Plaintiff's causes of action are federal questions," Obj. at 1 (Dkt. # 19, filed Aug. 12, 2010) – that this court should

exercise continued jurisdiction over this matter.

The court declines to exercise supplemental jurisdiction over the remaining state law causes of action. Plaintiff's federal claims are dismissed with prejudice. The remaining state law claims are remanded to the Marlboro County Court of Common Pleas.

IT IS SO ORDERED.

s/ Cameron McGowan Currie
CAMERON MCGOWAN CURRIE
UNITED STATES DISTRICT JUDGE

Columbia, South Carolina
October 22, 2010

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