

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

|                                       |   |                                  |
|---------------------------------------|---|----------------------------------|
| Curtis Scott,                         | ) | Civil Action No.: 9:11-02208-CWH |
|                                       | ) |                                  |
| Plaintiff,                            | ) |                                  |
|                                       | ) |                                  |
| vs.                                   | ) |                                  |
|                                       | ) | <b>ORDER</b>                     |
| Michael Ballenski, Detective;         | ) |                                  |
| Tom Johnson, Solicitor;               | ) |                                  |
| Miguel Leyva; and Shawnrika Burrison, | ) |                                  |
|                                       | ) |                                  |
| Defendants.                           | ) |                                  |
|                                       | ) |                                  |

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The plaintiff, Curtis Scott, is a state prisoner in the custody of the South Carolina Department of Corrections in Evans Correctional Institution, in Bennettsville, South Carolina. He is serving a sentence for attempted armed robbery. Proceeding pro se and in forma pauperis, Scott filed this Section 1983 action against the above-captioned defendants, alleging “false imprisonment, due process of the law, suggestive police lineup and misidentification, wrongful imprisonment, [and] 4th and 14th Amendments fruit of poisonous tree doctrine,” in connection with Scott’s criminal conviction for attempted armed robbery.

In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2)(d), D.S.C., this matter was referred to a United States Magistrate Judge for pre-trial proceedings and a report and recommendation. On September 19, 2011, the magistrate judge issued a report recommending that the complaint be dismissed without prejudice and without issuance and service of process. (ECF No. 8). The magistrate judge specifically advised Scott of the procedures and requirements

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for filing objections to the report and the serious consequences if he failed to do so. He has filed no objections and the time for doing so has expired.

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, 271 (1976). 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 28 U.S.C. § 636(b). 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. In the absence of an objection, the Court reviews the report only for clear error. See Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005) (stating that “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.”) (citation omitted).

After reviewing the record of this matter, the applicable law, and the report and recommendation of the magistrate judge, the Court agrees with the conclusions of the magistrate judge. Accordingly, the Court adopts and incorporates the report and recommendation by reference in this Order. The complaint is dismissed without prejudice and without issuance and service of process.

**AND IT IS SO ORDERED.**

December 2, 2011  
Charleston, South Carolina

  
C. WESTON HOUCK  
UNITED STATES DISTRICT JUDGE

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