

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

RECEIVED
U.S. DISTRICT COURT, CHARLESTON, SC

2015 MAR 11 A 8:51

John Ervin Wilson, Jr., *a/k/a John Wilson,*)
a/k/a John E. Wilson,)
)
Plaintiff,)
)
vs.)
)
South Carolina Department of Corrections,)
)
Defendant.)
)
)
)
_____)

No. 9:14-cv-4365-RMG

ORDER

This matter comes before the Court on the Report and Recommendation (R & R) of the Magistrate Judge (Dkt. No. 14), recommending that the Court dismiss this action without prejudice and without issuance of service. Plaintiff has not filed any objections to the R & R. For the reasons stated below, the Court ADOPTS the R & R and DISMISSES this action without prejudice.

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. *Mathews v. Weber*, 423 U.S. 261, 270–71 (1976). The Court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate.” 28 U.S.C. § 636(b)(1). This Court is charged with making a de novo determination of those portions of the R & R to which specific objection is made. Here, however, because no objection has been made, this Court “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 & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P 72 advisory committee note). Moreover, in the absence of specific objections to the R & R, the Court need not give any explanation for

adopting the Magistrate Judge's analysis and recommendation. *See Camby v. Davis*, 718 F.2d 198, 200 (4th Cir. 1983).

The Court agrees with the Magistrate Judge that this Court lacks subject matter jurisdiction over this action brought under state law against a non-diverse party, that Defendant is entitled to Eleventh Amendment immunity, and that dismissal is warranted under Rule 41 for failure to bring the case into proper form in accordance with the Court's prior order. Therefore, the Court **ADOPTS** the Magistrate Judge's Report and Recommendation, (Dkt. No. 14), as the order of this Court. Accordingly, action is **DISMISSED WITHOUT PREJUDICE** and without issuance and service of process.

IT IS SO ORDERED.



Richard Mark Gergel
United States District Judge

March 10, 2015
Charleston, South Carolina