

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

Denzell McMillian, )  
)  
Plaintiff, )  
)  
vs. )  
)  
Yvonne McBride, Richland County Council;) )  
Kenneth Sligh, Captain, )  
)  
Defendants. )  
\_\_\_\_\_ )

Case No.: 9:22-cv-3699-JD-MHC

**ORDER AND OPINION**

This matter is before the Court with the Report and Recommendation (“Report”) of United States Magistrate Molly H. Cherry, made in accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2) of the District of South Carolina.<sup>1</sup> (DE 10.) Plaintiff Denzell McMillian (“Plaintiff” or “McMillian”), proceeding *pro se*, filed this action pursuant to 42 U.S.C. § 1983 against Defendants Yvonne McBride, Richland County Council, and Kenneth Sligh, Captain (collectively “Defendants”), alleging he was subjected to “mass punishment” while he was a pretrial detainee at the Alvin S. Glenn Detention Center (“ASCDC”) because there were no lights in his cell, no working water, no recreational time, and no clean sheets, blankets, wash cloths, and towels. (DE 1.) As a result, Plaintiff claims he has suffered from anxiety, depression, and paranoia. He seeks monetary damages for an alleged violation of his Fourteenth Amendment rights and for a “lack of medical treatment and security operations.” (DE 1, p. 7.)

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<sup>1</sup> The recommendation has no presumptive weight, and the responsibility for making a final determination remains with the United States District Court. See Mathews v. Weber, 423 U.S. 261, 270-71 (1976). The court is charged with making a de novo determination of those portions of the Report and Recommendation to which specific objection is made. 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).

By Order dated December 13, 2022, Plaintiff was given an opportunity to provide the necessary information and paperwork to bring his case into proper form for evaluation and possible service of process. (DE 4.) Plaintiff was also notified of pleading deficiencies and given the opportunity to amend his Complaint. (Id.) The proper form order was returned as undeliverable on January 4, 2023. (DE 7.) Because records from the South Carolina Department of Corrections (“SCDC”) indicated that Plaintiff was then housed at Kirkland Correctional Institution of SCDC, the proper form order was remailed to Plaintiff at that address on January 5, 2023. Plaintiff did not respond, and the proper form order mailed in January 2023 was not returned to the court. Because SCDC records indicated that Plaintiff was moved to the Turbeville Correctional Institution (“TCI”) of the SCDC, the proper form order was mailed to Plaintiff at TCI on February 14, 2023. Plaintiff did not respond, nor has the proper form order mailed on February 14, 2023, been returned to the court. SCDC records indicate that Plaintiff remains incarcerated at TCI.

The Report was issued on March 30, 2023, recommending that this action be dismissed without prejudice, without leave to amend, and without issuance and service of process because the time to bring this case into proper form has now lapsed, and Plaintiff has failed to provide the required items to bring his case into proper form. (DE 10.) Plaintiff has not filed an objection to the Report. In the absence of objections to the Report and Recommendation, this Court is not required to give any explanation for adopting the recommendation. See Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983). The 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).

Accordingly, after a thorough review of the Report and Recommendation and the record in this case, the Court finds that there is no clear error on the face of the record, and therefore, adopts the Report (DE 10) and incorporates it herein.

It is, therefore, **ORDERED** that Plaintiff's case is dismissed without prejudice, without leave to amend, and without issuance and service of process.

**IT IS SO ORDERED.**



Joseph Dawson, III  
United States District Judge

Florence, South Carolina  
September 28, 2023

**NOTICE OF RIGHT TO APPEAL**

Plaintiff is hereby notified that he has the right to appeal this order within thirty (30) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.