

UNPUBLISHED**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

No. 24-6721

RANDY JOHNSON,

Plaintiff - Appellant,

v.

G. HALL, Grievance Coordinator, in their individual and official capacity; STACY RICHARDSON, Head Classification, in their individual and official capacity; MELVIN WARREN, Acting Director, South Carolina Department of Probation, Parole and Pardon Services, in their individual and official capacity; MATTHEW C. BUCHANAN, General Counsel, in their individual and official capacity,

Defendants - Appellees.

Appeal from the United States District Court for the District of South Carolina, at Greenville. David C. Norton, District Judge. (6:24-cv-00351-DCN)

Submitted: July 31, 2025

Decided: October 31, 2025

Before GREGORY and BENJAMIN, Circuit Judges, and KEENAN, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

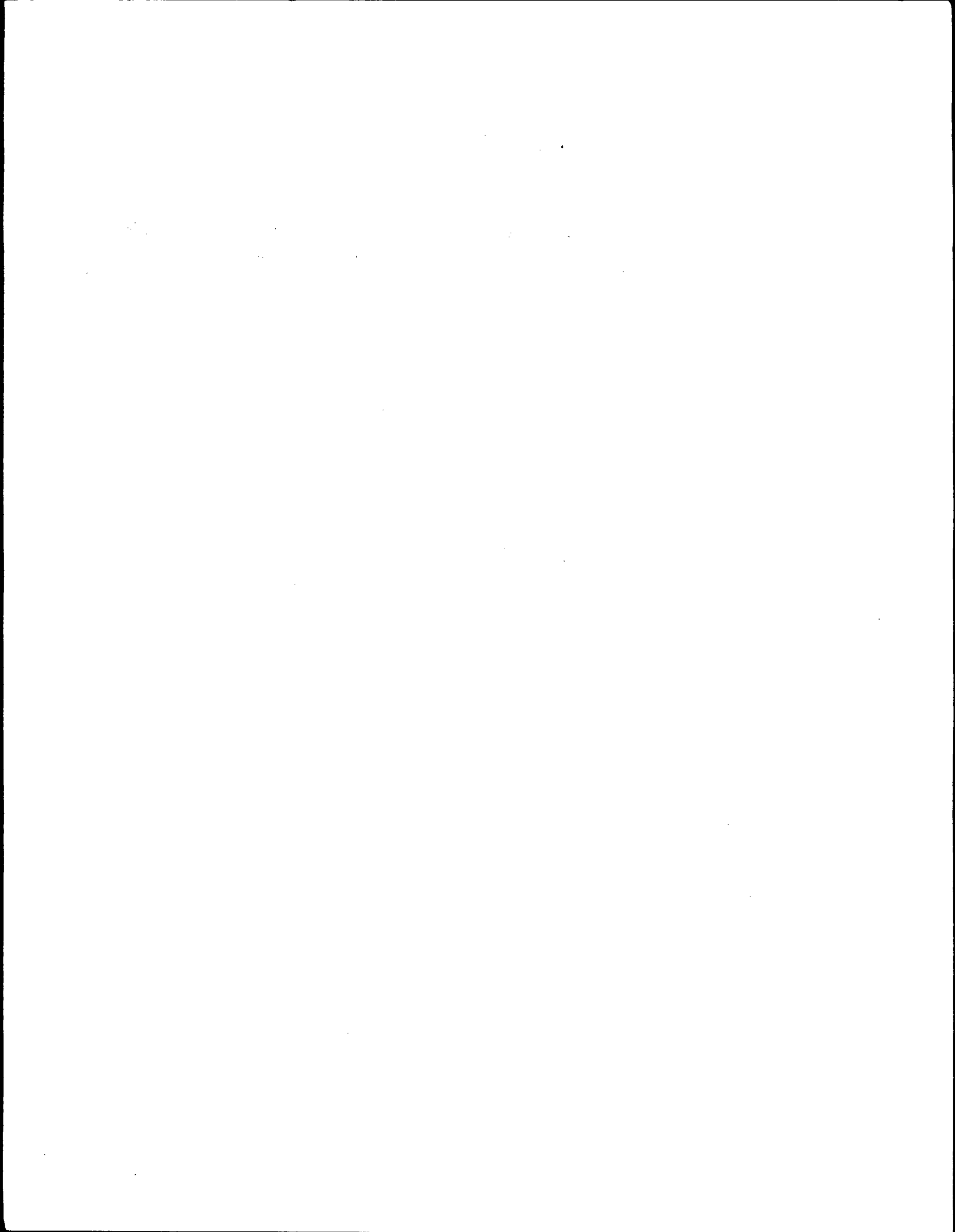
Randy Johnson, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Randy Johnson appeals the district court's orders accepting the recommendation of the magistrate judge and dismissing Johnson's 42 U.S.C. § 1983 complaint under 28 U.S.C. § 1915(e)(2)(B) for failure to state a claim and denying his motion to alter or amend the judgment pursuant to Fed. R. Civ. P. 59. We have reviewed the record and discern no reversible error. Accordingly, we grant Johnson's motion to amend his informal brief, deny his motion for the appointment of counsel, and affirm the district court's orders. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED



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

Randy Johnson,

Plaintiff,

vs.

G. Hall; Stacy Richardson; Melvin Warren;
and Matthew Buchanan,

Defendants.

C/A No.: 6:24-cv-0351 DCN

The above referenced case is before this court upon the magistrate judge's recommendation that this action be dismissed without prejudice, without leave to amend, and without issuance and service of process.

This court is charged with conducting a de novo review of any portion of the magistrate judge's report to which a specific objection is registered, and may accept, reject, or modify, in whole or in part, the recommendations contained in that report. 28 U.S.C. § 636(b)(1). However, absent prompt objection by a dissatisfied party, it appears that Congress did not intend for the district court to review the factual and legal conclusions of the magistrate judge. Thomas v. Arn, 474 U.S. 140 (1985). Additionally, any party who fails to file timely, written objections to the magistrate judge's report pursuant to 28 U.S.C. § 636(b)(1) waives the right to raise those objections at the appellate court level. United States v. Schronce, 727 F.2d 91 (4th Cir. 1984), cert. denied, 467 U.S. 1208 (1984).¹ **Objections to the Magistrate Judge's Report and Recommendation were timely filed on April 10, 2024 by plaintiff.**

¹ In Wright v. Collins, 766 F.2d 841 (4th Cir. 1985), the court held "that a pro se litigant must receive fair notification of the consequences of failure to object to a magistrate judge's report

A de novo review of the record indicates that the magistrate judge's report accurately summarizes this case and the applicable law. Accordingly, the magistrate judge's Report and Recommendation is **AFFIRMED**, and this action is **DISMISSED** without prejudice, without leave to amend, and without issuance and service of process.

AND IT IS SO ORDERED.



David C. Norton
United States District Judge

May 13, 2024
Charleston, South Carolina

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified that any right to appeal this Order is governed by Rules 3 and 4 of the Federal Rules of Appellate Procedure.

before such a procedural default will result in waiver of the right to appeal. The notice must be 'sufficiently understandable to one in appellant's circumstances fairly to appraise him of what is required.'" Id. at 846. Plaintiff was advised in a clear manner that his objections had to be filed within ten (10) days, and he received notice of the consequences at the appellate level of his failure to object to the magistrate judge's report.

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

Randy Johnson,

Plaintiff,

vs.

G. Hall, Stacy Richardson, Melvin
Warren, Matthew Buchanan,

Defendants.

C/A No. 6:24-cv-00351-DCN-KFM

REPORT OF MAGISTRATE JUDGE

The plaintiff, a state prisoner proceeding *pro se* and *in forma pauperis*, brings this action pursuant to 42 U.S.C. § 1983 alleging violations of his constitutional rights. Pursuant to the provisions of 28 U.S.C. § 636(b), and Local Civil Rule 73.02(B)(2)(d) (D.S.C.), this magistrate judge is authorized to review all pretrial matters in cases filed under 42 U.S.C. § 1983 and submit findings and recommendations to the district court.

The plaintiff's complaint was entered on the docket on January 24, 2024 (doc. 1). By order filed February 14, 2024, the plaintiff was given a specific time frame in which to bring his case into proper form for judicial screening (doc. 8). The plaintiff complied with the court's order, and the case is now in proper form for judicial screening. However, for the reasons that follow, it is recommended that this matter be dismissed.

ALLEGATIONS

This is a § 1983 action filed by the plaintiff, a state prisoner in the custody of the South Carolina Department of Corrections ("SCDC") and located at Broad River Correctional Institution ("Broad River") (doc. 1). The plaintiff alleges violations of his First, Fifth, Eighth, and Fourteenth Amendment rights (*id.* at 4). He contends that Mr. Hall violated his First, Fifth, and Fourteenth Amendment rights by preventing him from filing a grievance (*id.* at 4, 6). Ms. Richardson violated his rights because she will not recalculate

his sentence based on his conviction being a non-violent one (*id.* at 6). He contends that Mr. Warren violated his rights by refusing to give the plaintiff an appearance before the non-violent parole board (*id.* at 6). Mr. Buchanan violated his rights because he was on notice about the improper actions in the plaintiff's parole request, but did not grant the plaintiff's request (*id.* at 6).

The plaintiff's injuries include risks to his life, health, and safety (*id.* at 7). For relief, the plaintiff seeks an order requiring SCDC to recalculate his sentence, provide him with a hearing before the non-violent parole board, and money damages (*id.* at 7).

STANDARD OF REVIEW

The plaintiff filed this action pursuant to 28 U.S.C. § 1915, the *in forma pauperis* statute. This statute authorizes the District Court to dismiss a case if it is satisfied that the action "fails to state a claim on which relief may be granted," is "frivolous or malicious," or "seeks monetary relief against a defendant who is immune from such relief." 28 U.S.C. § 1915(e)(2)(B). Further, the plaintiff is a prisoner under the definition of 28 U.S.C. § 1915A(c), and "seeks redress from a governmental entity or officer or employee of a governmental entity." 28 U.S.C. § 1915A(a). Thus, even if the plaintiff had prepaid the full filing fee, this Court is charged with screening the plaintiff's lawsuit to identify cognizable claims or to dismiss the complaint if (1) it is frivolous, malicious, or fails to state a claim upon which relief may be granted, or (2) seeks monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915A.

As a *pro se* litigant, the plaintiff's pleadings are accorded liberal construction and held to a less stringent standard than formal pleadings drafted by attorneys. See *Erickson v. Pardus*, 551 U.S. 89 (2007) (*per curiam*). The requirement of liberal construction does not mean that the Court can ignore a clear failure in the pleading to allege facts which set forth a claim cognizable in a federal district court. See *Weller v. Dep't of Soc. Servs.*, 901 F.2d 387, 391 (4th Cir. 1990).

This complaint is filed pursuant to 42 U.S.C. § 1983, which “‘is not itself a source of substantive rights,’ but merely provides ‘a method for vindicating federal rights elsewhere conferred.’” *Albright v. Oliver*, 510 U.S. 266, 271 (1994) (quoting *Baker v. McCollan*, 443 U.S. 137, 144 n. 3 (1979)). A civil action under § 1983 “creates a private right of action to vindicate violations of ‘rights, privileges, or immunities secured by the Constitution and laws’ of the United States.” *Rehberg v. Paulk*, 566 U.S. 356, 361 (2012). To state a claim under § 1983, a plaintiff must allege two essential elements: (1) that a right secured by the Constitution or laws of the United States was violated, and (2) that the alleged violation was committed by a person acting under the color of state law. *West v. Atkins*, 487 U.S. 42, 48 (1988).

DISCUSSION

As noted above, the plaintiff filed the instant action pursuant to § 1983, seeking damages from the defendants. However, as set forth in more detail below, the instant action should be dismissed.

As noted, the plaintiff alleges that his rights have been violated by the defendants because they have denied his request to have his sentence recalculated, his request for parole, and his request to appear before the non-violent parole board (doc. 1). Federal law opens two main avenues to relief on complaints related to imprisonment: a petition for habeas corpus pursuant to 28 U.S.C. § 2254, and a complaint under the Civil Rights Act, § 1983. *Muhammad v. Close*, 540 U.S. 749, 750 (2004); see *Preiser v. Rodriguez*, 411 U.S. 475, (1973) (an application seeking release from custody is an application for habeas corpus and is not an available remedy under the Civil Rights Act). “Habeas corpus, and not § 1983, is the exclusive federal remedy for state prisoners seeking actual release from confinement,” *Griffin v. Baltimore Police Dep’t*, 804 F.3d 692, 694–95 (4th Cir. 2015) (citing *Preiser*, 411 U.S. 475, 487–90), and “requests for relief turning on circumstances of confinement may be presented in a § 1983 action,” *Muhammad*, 540 U.S.

at 750. Here, the plaintiff seeks an order recalculating his sentence, requiring SCDC to stop “denying the vote” on his parole request, and to have a parole hearing before the non-violent parole board (in addition to money damages) – actions this court cannot order in this civil rights action. *Heck v. Humphrey*, 512 U.S. 477, 481 (1994) (noting that “habeas corpus is the exclusive remedy for a state prisoner who challenges the fact or duration of his confinement and seeks immediate or speedier release, even though such a claim may come within the literal terms of § 1983”).

Even presuming the plaintiff could bring his parole eligibility claim in this § 1983 action for money damages, it would still be subject to dismissal. To state a procedural due process violation, a plaintiff must (1) identify a protected liberty or property interest and (2) demonstrate deprivation of that interest without due process. *See Prieto v. Clarke*, 780 F.3d 245, 248 (4th Cir. 2015). However, the plaintiff’s parole claim is subject to dismissal because prisoners generally do not have a constitutionally recognized liberty interest in being released on parole. *Greenholtz v. Inmates of Neb. Penal and Corr. Complex*, 442 U.S. 1, 7–8 (1979) (recognizing that there is “no constitutional or inherent right of a convicted person to be conditionally released before the expiration of a valid sentence.”); *see Rahim v. Adger, et al.*, C/A No. 0:19-cv-00609-JMC, 2019 WL 4958068, at *2 (D.S.C. Oct. 8, 2019) (recognizing that a South Carolina prisoner has no liberty interest in being granted parole). Further, to the extent the plaintiff contends he has been denied the ability to file a grievance about his parole claim, “it is well settled that inmates have no federal constitutional right to have any inmate grievance system in operation at the place where they are incarcerated.” *Rivera v. Leonard*, C/A No. 5:15-cv-01191-DCN, 2016 WL 3364905, at *4 (D.S.C. June 17, 2016), *aff’d*, 672 F. App’x 262 (4th Cir. 2016), *cert. denied* 583 U.S. 845 (2017). As such, even if the plaintiff could bring this action pursuant to § 1983, his claim is still subject to dismissal.

RECOMMENDATION

The undersigned is of the opinion that the plaintiff cannot cure the defects identified above by amending his complaint. Therefore, the undersigned recommends that the district court dismiss this action without prejudice, without leave to amend, and without issuance and service of process.¹ See *Britt v. DeJoy*, 45 F.4th 790, 2022 WL 3590436 (4th Cir. Aug. 17, 2022) (mem.) (published) (noting that “when a district court dismisses a complaint or all claims without providing leave to amend . . . the order dismissing the complaint is final and appealable”). **The attention of the parties is directed to the important notice on the next page.**

IT IS SO RECOMMENDED.

s/Kevin F. McDonald
United States Magistrate Judge

March 21, 2024
Greenville, South Carolina

¹ The plaintiff is warned that if the United States District Judge assigned to this matter adopts this report and recommendation, the dismissal of this action for failure to state a claim could later be deemed a strike under the three-strikes rule. See *Pitts v. South Carolina*, 65 F.4th 141 (4th Cir. 2023).

Notice of Right to File Objections to Report and Recommendation

The parties are advised that they may file specific written objections to this Report and Recommendation with the District Judge. Objections must specifically identify the portions of the Report and Recommendation to which objections are made and the basis for such objections. "[I]n 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." *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committees note).

Specific written objections must be filed within fourteen (14) days of the date of service of this Report and Recommendation. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b); see Fed. R. Civ. P. 6(a), (d). Filing by mail pursuant to Federal Rule of Civil Procedure 5 may be accomplished by mailing objections to:

Robin L. Blume, Clerk
United States District Court
250 East North Street, Room 2300
Greenville, South Carolina 29601

Failure to timely file specific written objections to this Report and Recommendation will result in waiver of the right to appeal from a judgment of the District Court based upon such Recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984).

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

Randy Johnson,

Plaintiff,

vs.

G. Hall; Stacy Richardson; Melvin Warren;
and Matthew Buchanan,

Defendants.

C/A No.: 6:24-cv-0351 DCN

ORDER

This matter is before the court pursuant to plaintiff's motion for reconsideration of the judgment dated May 13, 2024, and motion to appoint counsel. These motions were filed on May 31, 2024 and June 3, 2024, respectively. After careful review of the pleadings and finding no basis on which to alter or amend the judgment, it is therefore

ORDERED that plaintiff's motion for reconsideration is **DENIED**.

IT IS FURTHER ORDERED that plaintiff's motion to appoint counsel is **MOOT**.

AND IT IS SO ORDERED.



David C. Norton
United States District Judge

June 24, 2024
Charleston, South Carolina