

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

Martin Avila, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 Edgefield Federal Prison; Mary Mitchell, )  
 Warden; Mr. Acosta, *Assist. Warden*; )  
 Mr. Collie, *Captain*; Mr. Clark, *Lt.*; Mr. Hollet, )  
*Lt.*; Mr. Neal, *C Unit Manager*; Mr. H. Koger, )  
 III, *B Unit Manager*; Mrs. S. Cheek, *B Case* )  
*Manager*; Mr. J. Bryant, *B Counselor*; Mr. )  
 Johnson, *C Counselor*; Mr. Santiago, *SIS*; Mr. )  
 Roper, *Unit Officer*; Mr. Upson, *Unit Officer*; )  
 Mr. Flores, *Unit Officer*; Mr. Kate, *Unit* )  
*Officer*; Mrs. Martin, *Unit Officer*; Mr. Green, )  
*Unit Officer*; Mr. Evans, *Unit Officer*; Mrs. )  
 Jackson, *Unit Manager*; Mr. Fallen, *Assist.* )  
*Warden*; Mr. S. Smith, *Recreation*; Mr. T. )  
 Nixon; Mr. J. Sullivan; Mr. Spark; Mrs. )  
 Lathrop; Mr. L. Morgan, *Unit Officer*; Mr. )  
 Wilson, *Unit Officer*; Mr. Burkett, *B*; Mr. )  
 Burkett; Mrs. V. Kepner, )  
 )  
 Defendants. )  
 )

C/A No. 0:10-2370-HMH-PJG

**ORDER**

The plaintiff has filed this action, *pro se*, seeking relief pursuant to 42 U.S.C. § 1983. Plaintiff, a federal inmate with the South Carolina Department of Corrections, alleges violations of his constitutional rights by the named defendants. The defendants filed a motion to dismiss on January 7, 2011, pursuant to the Federal Rules of Civil Procedure. (ECF No. 43.) As the plaintiff is proceeding *pro se*, the court entered an order pursuant to Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975) on January 12, 2011, advising the plaintiff of the importance of a motion to dismiss and of the need for him to file an adequate response. (ECF No. 44.) The plaintiff was specifically

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advised that if he failed to respond adequately, the defendants' motion may be granted, thereby ending his case.

Notwithstanding the specific warning and instructions set forth in the court's Roseboro order, the plaintiff has failed to respond to the motion. As such, it appears to the court that he does not oppose the motion and wishes to abandon this action.

Based on the foregoing, it is

**ORDERED** that the plaintiff shall advise the court as to whether he wishes to continue with this case and to file a response to the defendants' motion to dismiss within fourteen (14) days from the date of this order. Plaintiff is further advised that if he fails to respond, **this action will be recommended for dismissal with prejudice for failure to prosecute.** See Davis v. Williams, 588 F.2d 69, 70 (4th Cir. 1978); Fed. R. Civ. P. 41(b).

**IT IS SO ORDERED.**



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Paige J. Gossett  
UNITED STATES MAGISTRATE JUDGE

May 16, 2011  
Columbia, South Carolina