

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

Daniel R. McClain,)	
)	C/A No. 0:15-4516-MBS
Plaintiff,)	
)	
vs.)	
)	O R D E R
Mr. Lefford Fate, Medical Director,)	
et al.,)	
)	
Defendants.)	
)	

Plaintiff Daniel R. McClain is an inmate in custody of the South Carolina Department of Corrections (SCDC) who currently is housed at Turbeville Correctional Institution in Turbeville, South Carolina. On November 6, 2015, Plaintiff filed a complaint pursuant to 42 U.S.C. § 1983, alleging that numerous staff members employed by or associated with the SCDC violated his constitutional right to medical care.

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Paige J. Gossett for pretrial handling. On December 11, 2015, the Magistrate Judge, among other things, issued a proper form order in which she directed Plaintiff to, within twenty-one days, (1) complete a summons, and (2) complete a Form USM-285 as to Defendant Fate. Plaintiff specifically was advised that failure to bring the case into proper form could result in the complaint being dismissed for failure to prosecute and failure to comply with an order of the court. However, the court received no response from Plaintiff regarding the Magistrate Judge's December 11, 2015, order. Accordingly, on February 9, 2016, the complaint was dismissed without prejudice for failure to prosecute and failure to comply with an order of the court.

This matter came before the court on motion for emergency relief filed by Plaintiff on

February 25, 2016. Plaintiff contends that he timely forwarded the requisite information to bring his case into proper form. Because the court had not received either the completed summons or completed USM-285 with respect to Defendant Fate, the court issued an order on July 19, 2016, directing Plaintiff to bring his case into proper form no later than August 1, 2016. On August 1, 2016, Plaintiff responded to the court's order and attached to his response what appear to be the requisite papers to bring his case into proper form.

No party has objected to Plaintiff's February 25, 2016, motion for emergency relief; the court's July 19, 2016, order; or Plaintiff's reply to the court's order. Therefore, the court grants Plaintiff's motion for emergency relief as follows. The court **vacates** its February 9, 2016, order (ECF No. 19) and judgment (ECF No. 20) dismissing the complaint without prejudice as to Defendant Fate. The Clerk of Court is directed to take necessary administrative steps to reopen the case. The action is recommitted to the Magistrate Judge for further pretrial handling as to Defendant Fate only.

IT IS SO ORDERED.

/s/ Margaret B. Seymour
Senior United States District Judge

Columbia, South Carolina

September 7, 2016.