

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

James Reginald Rose,)	C/A No. 0:17-2921-RBH-PJG
)	
Plaintiff,)	
)	
vs.)	ORDER
)	
Lisa Young,)	
)	
Defendant.)	
_____)	

The self-represented plaintiff has filed this action seeking relief pursuant to 42 U.S.C. § 1983. Plaintiff, an inmate with the South Carolina Department of Corrections, alleges violations of his constitutional rights by the named defendant. On May 15, 2108, the defendant moved to compel Plaintiff to respond to her discovery requests. (ECF No. 41.) Plaintiff did not respond to the defendant’s motion, and on June 12, 2018, the court issued a docket text order granting the defendant’s motion and directing Plaintiff to serve discovery responses on the defendant by June 26, 2018. (ECF No. 49.) On July 3, 2018, the defendant filed a motion seeking sanctions, including dismissal of this action, pursuant to the Rule 37 of the Federal Rules of Civil Procedure due to Plaintiff’s failure to participate in discovery and comply with an order of the court. (ECF No. 55.) Following the defendant’s motion, the court issued a docket text order suspending the dispositive motions deadline until resolution of the defendant’s motion for sanctions. (ECF No. 56.) This order, which was mailed to Plaintiff at his address of record, was returned to the Clerk of Court on July 18, 2018 as “refused” and “unable to forward.” (ECF No. 59-1 at 1.) The court issued an order on July 31, 2018 directing Plaintiff to advise the court as to whether he wished to continue with his case and to file a response to the defendant’s motion for sanctions within fourteen days. (ECF No. 61.)

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Plaintiff was further advised that failure to respond would result in a recommendation that his case be dismissed with prejudice pursuant to Rule 37 and/or for failure to prosecute. (Id.) This order was clearly received by Plaintiff, as he responded to it on August 16, 2018. (ECF No. 63.) In his response, Plaintiff informed the court that he wished to continue with his case.¹ (Id.) He also noted that he may have had legal mail sent to him on approximately July 17, 2018, but that it was returned. (Id.)

Notably, Plaintiff did not argue that he did not receive the defendant's discovery requests, the defendant's motion to compel, or the defendant's motion for sanctions. It also appears that the mail that was returned to the court as undeliverable did not impact Plaintiff's ability to respond to the defendants' discovery requests, motion to compel, or motion for sanctions in any way.

Accordingly, it is hereby

ORDERED that all deadlines in this case are suspended. Plaintiff is directed to serve his discovery responses on the defendant in accordance with the Federal Rules of Civil Procedure by **September 26, 2018**. Failure to comply **will result in a recommendation that this action be dismissed with prejudice pursuant to Rule 37 and/or 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.



Paige J. Gossett
UNITED STATES MAGISTRATE JUDGE

September 12, 2018
Columbia, South Carolina

¹ Plaintiff also requests that the court appoint him counsel. (Id.) For the reasons articulated in the court's previous orders (ECF Nos. 42 & 53), this motion is denied.