

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ROCK HILL DIVISION

Rico Leon Hunter,)	
)	
Plaintiff,)	Civil Action No. 0:22-cv-04083
)	
vs.)	ORDER
)	
South Carolina Department of)	
Corrections,)	
)	
Defendant.)	
)	
_____)	

Plaintiff Rico Leon Hunter, a state prisoner proceeding *pro se*, filed this action pursuant to 42 U.S.C. § 1983, alleging violations of his constitutional rights. (ECF No. 1; 11). In accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02(B)(2)(d), (e) (D.S.C.), this matter was referred to a magistrate judge for all pretrial proceedings. On December 8, 2022, the magistrate judge issued an Order Regarding Amendment of Complaint, which set forth several deficiencies in Plaintiff’s complaint and allowed Plaintiff twenty-one days to file an amended complaint to correct the deficiencies. (ECF No. 11). The Order further warned that if Plaintiff “fail[ed] to file an amended complaint that corrects those deficiencies, this action will be recommended for summary dismissal pursuant to 28 U.S.C. § 1915 and § 1915A.” *Id.* at 5.

On December 27, 2022, the court received a letter from Plaintiff referencing a “motion to compel discovery” and “motions for sanction” that he allegedly prepared, but Plaintiff filed no such motions. *See* (ECF No. 13). On January 24, 2023, the undersigned judge entered a text order giving Plaintiff fourteen additional days to comply with the magistrate judge’s prior orders (ECF Nos. 9, 11). (ECF No. 17). Plaintiff was warned that failure to comply with the magistrate judge’s orders would result in dismissal of the case with prejudice pursuant to Fed. R. Civ. P. 41(b). *Id.*

On February 3, Plaintiff filed a proposed summons and a Motion to Amend/Correct. (ECF No. 20). This Motion to Amend, in its entirety, stated “8th Amendment Cruel and Unusual Punishment 14th Amendment Right Due Proceese [sic] (1.) section” with no further explanation or elaboration. *Id.*

On March 1, 2023, the magistrate judge issued a Report and Recommendation (“Report”) recommending that the district court summarily dismiss the case without prejudice and without issuance and service of process. (ECF No. 24). The Report notified Plaintiff of his right to file objections. *Id.* at 4. The Report was mailed to Wigfall at his last known address (ECF No. 26), and it has not been returned to the court as undeliverable. Accordingly, Plaintiff is presumed to have received the Report. However, no objections have been filed, and the time to do so has now run.

The magistrate judge’s recommendation has no presumptive weight, and the responsibility for making a final determination remains with the United States District Court. *Wimmer v. Cook*, 774 F.2d 68, 72 (4th Cir. 1985) (quoting *Mathews v. Weber*, 423 U.S. 261, 270–71 (1976)). Nevertheless, “[t]he district court is only required to review *de novo* those portions of the report to which specific objections have been made, and need not conduct *de novo* review ‘when a party makes general and conclusory objections that do not direct the court to a specific error in the magistrate judge’s proposed findings and recommendations.’” *Farmer v. McBride*, 177 Fed. App’x 327, 330–31 (4th Cir. April 26, 2006) (quoting *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982)). 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). However, in the absence of specific objections to the Report and Recommendation, this Court is not required to give any explanation for adopting the recommendation. *Greenspan v. Brothers*

Prop. Corp., 103 F. Supp. 3d 734, 737 (D.S.C. 2015) (citing *Camby v. Davis*, 718 F.2d 198, 199–200 (4th Cir. 1983)).

As noted above, Plaintiff has failed to file any objections to the Report. Thus, having reviewed the Report and finding no clear error, the court agrees with, and wholly **ADOPTS**, the magistrate judge’s findings and recommendations in the Report (ECF No. 24), which is incorporated herein by reference. Accordingly, this case is summarily **DISMISSED without prejudice and without issuance and service of process.**

IT IS SO ORDERED.

s/Timothy M. Cain
United States District Judge

Anderson, South Carolina
March 22, 2023

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.