

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

David McCoy,
Plaintiff,
v.
Bryant P. Stirling; Sgt. Jenkins; St. Cpl. G. Lission; Head Nurse of Sumter County Det.,
Defendants.

Civil Action No. 0:23-cv-2032-BHH

ORDER

This matter is before the Court for review of the Report and Recommendation ("Report") of United States Magistrate Judge Paige Jones Gossett, which was made in accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02 for the District of South Carolina. In her Report, which was filed on July 20, 2023, the Magistrate Judge recommends that the Court summarily dismiss this case with prejudice for lack of prosecution and for failure to comply with the Court's orders, pursuant to Rule 41(b) of the Federal Rules of Civil Procedure. (ECF No. 19.) Attached to the Report was a notice advising Plaintiff of his right to file written objections to the Report within fourteen days of receiving a copy. To date, no objections have been filed.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with this Court. See Mathews v. Weber, 423 U.S. 261, 270-71 (1976). The Court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the Magistrate Judge. 28 U.S.C. § 636(b)(1). The Court may

also receive further evidence or recommit the matter to the Magistrate Judge with instructions. *Id.* The Court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objections are made. In the absence of specific objections, however, the Court reviews the matter only for clear error. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in 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.’”) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

Here, because Plaintiff has failed to file objections, it appears that he no longer wishes to pursue this action. Furthermore, because no objections have been filed, the Court has reviewed the Magistrate Judge’s findings and recommendations for clear error. Finding none, the Court hereby adopts and incorporates the Magistrate Judge’s Report (ECF No. 19), and for the reasons set forth in the Report, the Court dismisses this action without prejudice for lack of prosecution and for failure to comply with the Court’s orders, pursuant to Rule 41(b) of the Federal Rules of Civil Procedure.

IT IS SO ORDERED.

/s/Bruce H. Hendricks
United States District Judge

August 14, 2023
Charleston, South Carolina