

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

Albert W. Hart,)	C/A No.: 1:08-3981-JFA-SVH
)	
Plaintiff,)	
)	
v.)	ORDER
)	
Sheriff James Lee Foster; Major D. Gilliam;)	
Captain Shane Kitchen; Sheriff Ricky W.)	
Chastain; Major Chris Hudson; and Captain)	
Paul Mode,)	
)	
Defendants.)	
)	

The *pro se* plaintiff, Albert W. Hart, filed this action pursuant to 42 U.S.C. § 1983 claiming violations of his constitutional rights with regard to his conditions of confinement while he was a pretrial detainee.

On September 10, 2010, the court received a sworn letter from the plaintiff's sister advising the court that the plaintiff had been murdered on August 21, 2010. The court referred the matter back to the Magistrate Judge who entered an order advising the plaintiff's sister of Fed. R. Civ. P. 25 in regard to proceeding with the lawsuit on the decedent's behalf. The Magistrate Judge set a December 10, 2010 deadline for any party to file a proper motion for substitution.

The Magistrate Judge has prepared a Report and Recommendation¹ suggesting that

¹ The Magistrate Judge's review is made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02. 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 the court. *Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objection is made, and the court may accept, reject, or modify, in whole or in part, the recommendation

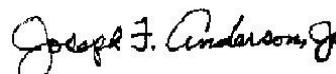
the action be dismissed under Rule 25(a)(1) because no party has filed a motion for substitution and the deadline to do so has expired. In addition, no objections to the Report were filed.

After carefully reviewing the applicable laws, the record in this case, and the Report and Recommendation, this court finds the Magistrate Judge's recommendation fairly and accurately summarizes the facts and applies the correct principles of law. The court, therefore, adopts the recommendation of the Magistrate Judge in full and incorporates this Report by specific reference.

Accordingly, this action is dismissed without prejudice. The defendants' motion for summary judgment is moot.

IT IS SO ORDERED.

January 25, 2011
Columbia, South Carolina



Joseph F. Anderson, Jr.
United States District Judge

of the Magistrate Judge, or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b)(1).