

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA

Albert W. Hart, formerly #170997, aka Albert Williams Hoyte aka Albert William Hoyte,	)	C/A No. 2:08-3981-JFA-RSC
	)	
	)	
Plaintiff,	)	
	)	ORDER
vs.	)	
	)	
Sheriff James Lee Foster, et al.	)	
	)	
Defendants.	)	
_____	)	

The *pro se* plaintiff, Albert W. Hart, brings this action pursuant to 42 U.S.C. § 1983. The Magistrate Judge assigned to this action<sup>1</sup> has prepared a Report and Recommendation wherein he suggests that this court should dismiss the action for lack of prosecution pursuant to Rule 41(b) of the Federal Rules of Civil Procedure. The Report sets forth in detail the relevant facts and standards of law on this matter, and the court incorporates such without a recitation.

The plaintiff was advised of his right to file objections to the Report and Recommendation, which was entered on the docket on February 11, 2009.

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<sup>1</sup> 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 to which specific objection is made and the court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1).

On March 5, 2009, the plaintiff filed a letter requesting the status of his case. In his letter, he indicates that he mailed the Clerk a letter on January 29, 2009 that was received by the Clerk via certified mail. The letter was addressed from "Albert Hoyte." As a result, the letter was not properly filed in the case because the plaintiff's name on the complaint is "Albert Hart." In any event, the court will treat the plaintiff's January 29, 2009 letter as confirmation of his desire to maintain this action.

Because it now appears that the plaintiff wishes to continue to prosecute this action, the Court will not adopt the Report and Recommendation. The Clerk is requested to return this file back to the Magistrate Judge for further handling.

IT IS SO ORDERED.

A handwritten signature in black ink that reads "Joseph F. Anderson, Jr." The signature is written in a cursive, slightly slanted style.

Joseph F. Anderson, Jr.  
United States District Judge

March 12, 2009  
Columbia, South Carolina