

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

Arthur N. Ferguson, #142560,)	
)	C/A No. 1:16-2605-MBS
Plaintiff,)	
)	
vs.)	
)	ORDER
Officer Smith; John Vandermusen; and)	
Scotty Bodiford,)	
)	
Defendants.)	
_____)	

At the time of the underlying complaint, Plaintiff Arthur N. Ferguson was detained at the Greenville County Detention Center in Greenville, South Carolina. Plaintiff filed a complaint on July 21, 2016, alleging that Defendants Officer Smith, John Vandermusen, and Scotty Bodiford, employees at the Greenville County Detention Center, violated his constitutional rights. See 42.U.S.C. § 1983. In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Shiva V. Hodges for pretrial handling.

On July 7, 2016, the Magistrate Judge issued an order directing Plaintiff to bring his complaint into proper form by (1) completing one summons form that listed every Defendant; and (2) completing a Form USM-285 for each Defendant. Plaintiff specifically was cautioned to advise the Clerk of Court in writing if his addressed changed for any reason. In addition, Plaintiff was advised that his failure to bring the case into proper form could result in the case being dismissed for failure to prosecute and failure to comply with an order of the court. See ECF No. 7. After Plaintiff failed to respond, the Magistrate Judge issued a second proper form order on August 23, 2016. See ECF No. 12. Plaintiff again did not respond. Accordingly, on September 30, 2016, the Magistrate Judge filed a Report and Recommendation in which she recommended that the case be

dismissed without prejudice for failure to prosecute. See Fed. R. Civ. P. 41(b).

On October 19, 2016, the envelope containing Plaintiff's copy of the Report and Recommendation was returned to the Office of the Clerk of Court marked "RETURN TO SENDER - ATTEMPTED - NOT KNOWN - UNABLE TO FORWARD - RETURN TO SENDER - REL. 9-7-16. The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). This 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). This court may also receive further evidence or recommit the matter to the Magistrate Judge with instructions. Id.

Based upon Plaintiff's failure to respond to the Magistrate Judge's July 29, 2016, and August 23, 2016, orders, it appears that Plaintiff no longer wishes to pursue this action. Further, Plaintiff has failed to provide the Clerk of Court with his current address. The court concurs in the recommendation of the Magistrate Judge that the case be dismissed. Accordingly, the within action is dismissed *without* prejudice pursuant to Rule 41(b).

IT IS SO ORDERED.

/s/ Margaret B. Seymour
Senior United States District Judge

Columbia, South Carolina

November 8, 2016

NOTICE OF RIGHT TO APPEAL

Plaintiff is hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.