

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
AIKEN DIVISION

LaVander Witherspoon,)	C/A No. 1:18-cv-00907-DCC
)	
Plaintiff,)	
)	
vs.)	
)	ORDER
Lt. Mickey Boland and Donna Miller,)	
)	
Defendants.)	
_____)	

This matter is before the Court on the Complaint alleging violations of his civil rights pursuant to 42 U.S.C. § 1983. ECF No. 1. In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2), (D.S.C.), this matter was referred to United States Magistrate Judge Shiva V. Hodges for pre-trial proceedings. On April 10, 2018, the Magistrate Judge issued a Report and Recommendation (“Report”) recommending that the Complaint be dismissed for failure to allege sufficient facts to state a plausible claim for deliberate indifference to serious medical needs. ECF No. 8. Plaintiff filed objections to the Report and also raised a possible conditions of confinement claim for the first time. ECF No. 10.

By Order dated May 17, 2018, this Court declined to adopt the Report and directed Plaintiff to file an Amended Complaint including all of his claims within 14 days of that Order. ECF No. 11. That Order was returned as undeliverable and, on June 13, 2018, the Magistrate Judge issued a second Report and advised Plaintiff of the procedures and requirements for filing objections to the Report and the serious consequences if he failed to do so. ECF No. 15. Plaintiff failed to file objections or update his address and the time to do so has lapsed.

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. See *Mathews v. Weber*, 423 U.S. 261 (1976). The Court is charged with making a de novo determination of any portion of the Report of the Magistrate Judge to which a specific objection is made. The Court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. See U.S.C. § 636(b). The Court will review the Report only for clear error in the absence of an objection. See *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of 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.” (citation omitted)).

The Magistrate Judge recommends dismissal of this action pursuant to Rule 41(b) of the Federal Rules of Civil Procedure. ECF No. 15. Plaintiff has failed to keep the Court apprised of his address despite being ordered to do so. See ECF No. 7. Accordingly, the Court agrees with the recommendation of the Magistrate; this action is **DISMISSED** without prejudice pursuant to Rule 41(b) for failing to comply with an Order of this Court.

IT IS SO ORDERED.

s/ Donald C. Coggins, Jr.
United States District Judge

July 3, 2018
Spartanburg, South Carolina