

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
AIKEN DIVISION**

| | | |
|-----------------------------------------|---|------------------------------------|
| Tommie Jackson, |) | Civil Action No. 1:21-cv-00358-RMG |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | |
| |) | |
| LT. Toro; Captain Jones; LT. Hardy; |) | ORDER AND OPINION |
| LT. Lorenzo; Property Officer Davids; |) | |
| Property Officer Torrez; Unit Counselor |) | |
| Walker; Unit Counselor Germanski; Unit |) | |
| Manager Henry; Nurse Truesdale; |) | |
| Nurse Davids; Doctor Hoey, |) | |
| |) | |
| Defendants. |) | |
| |) | |

This matter is before the Court upon the Report and Recommendation (“R &R”) of the Magistrate Judge recommending the Court dismiss Plaintiff’s case for lack of prosecution. (Dkt. No. 44). For the reasons stated below, the Court adopts the R & R as the Order of the Court.

I. Background

On August 30, 2021, Defendants filed a motion for summary judgment. (Dkt. No. 39). On August 31, 2021, the Magistrate Judge entered a *Roseboro Order*, which was mailed to Plaintiff. (Dkt. No. 40). The *Roseboro Order* advised Plaintiff of the significance of a dispositive motion and that he was required to file a response to the motion. Plaintiff was advised that if he failed to file a properly supported response, Defendants’ dispositive motions may be granted and end his case. Plaintiff’s deadline to respond to Defendants’ dispositive motions was October 1, 2021. Plaintiff did not file a response. On October 4, 2021, the Magistrate Judge issued an Order instructing Plaintiff to advise whether he wished to continue with the case by October 19, 2021, otherwise the Magistrate Judge would recommend dismissing the case for Plaintiff’s failure to prosecute the case. (Dkt. No. 42). Defendant did not file a response. On October 26, 2021, the

Magistrate Judge issued an R & R recommending the Court dismiss Plaintiff's case for failure to prosecute. (Dkt. No. 44). To date, Defendant has not filed a response in opposition to Defendants' dispositive motion, nor has Defendant responded to the Magistrate Judge's October 4 Order. Defendant did not file objections to the R & R. The matter is ripe for the Court's review.

II. Standard

The Magistrate Judge makes only a recommendation to this Court that has no presumptive weight. The responsibility to make a final determination remains with the 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). This Court must make a *de novo* determination of those portions of the R & R Plaintiff specifically objects. Fed. R. Civ. P. 72(b)(2). Where Plaintiff fails to file any specific objections, “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.” *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (internal quotation omitted). “Moreover, in the absence of specific objections to the R & R, the Court need not give any explanation for adopting the recommendation.” *Wilson v. S.C. Dept of Corr.*, No. 9:14-CV-4365-RMG, 2015 WL 1124701, at *1 (D.S.C. Mar. 12, 2015). *See also Camby v. Davis*, 718 F.2d 198, 200 (4th Cir.1983). Defendant has not filed objections in this case and the R & R is reviewed for clear error.

III. Discussion

Upon a review of the R & R, the Court finds the Magistrate Judge correctly determined that Plaintiff's case is subject to dismissal for failure to prosecute. *Chandler Leasing Corp. v. Lopez*, 669 F.2d 919 (4th Cir. 1982). *See also Davis v. Williams*, 588 F.2d 69, 70 (4th Cir. 1978); Rule 41(b), FED. R. CIV. P. The Magistrate Judge issued an Order that was mailed to Plaintiff

explaining that Plaintiff was required to file a response to Defendants' dispositive motion, or Defendants' dispositive motion may be granted and end his case. (Dkt. No. 40). The deadline for Plaintiff to file a response to Defendants' dispositive motion was October 1, 2021. (*Id.*). On October 4, 2021, the Magistrate Judge entered an Order instructing Plaintiff to advise the Court by October 19, 2021 as to whether he wished to continue with this case. (Dkt. No. 42). The Magistrate Judge further advised Plaintiff that dismissal for failure to prosecute would be recommended if Plaintiff failed to respond. (*Id.*). As Plaintiff has not filed a response to Defendants' dispositive motion, or the Magistrate Judge's Order, his case is dismissed for lack of prosecution.

IV. Conclusion

For the reasons stated above, the Court adopts the R & R (Dkt. No. 44) as the Order of the Court and Plaintiff's case is **DISMISSED** for lack of prosecution. **AND IT IS SO ORDERED.**

s/ Richard M. Gergel
Richard M. Gergel
United States District Judge

November 16, 2021
Charleston, South Carolina