

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

Antonio Gordon, #259798,)	
)	C/A No. 2:10-0476-MBS
Plaintiff,)	
)	
vs.)	
)	ORDER
Mrs. DHO Linda Sanders; Mr. Warden)	
Leroy Cartledge; Major Mursier Frank;)	
Officer Sgt. Tutt; individually and in their)	
official capacities,)	
)	
Defendants.)	
)	

Plaintiff Antonio Gorton is an inmate in custody of the South Carolina Department of Corrections (SCDC). Plaintiff is housed at the McCormick Correctional Institution in McCormick, South Carolina. Plaintiff, proceeding pro se, filed a complaint pursuant to 42 U.S.C. § 1983 on March 1, 2010, alleging that his constitutional rights had been violated in various respects.

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 Robert S. Carr for pretrial handling. On September 3, 2010, Defendants filed a motion for summary judgment. On September 8, 2010, an order was issued pursuant to Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975), advising Plaintiff of the summary judgment procedure and the possible consequences of failing to respond adequately. Plaintiff filed no response to Defendant’s motion for summary judgment. On October 22, 2010, the Magistrate Judge entered an order in which he directed Plaintiff to file a response to Defendants’ motion within ten days or else the action would be dismissed with prejudice for failure to prosecution. Plaintiff filed no response to the Magistrate Judge’s October 22, 2010 order.

On November 16, 2010, the Magistrate Judge issued a Report and Recommendation in which he recommended that the within action be dismissed for failure to prosecute. See Fed. R. Civ. P. 41(b). Plaintiff filed no response to the Report and Recommendation.

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). The court is charged with making a de novo determination of any portions of the Report and Recommendation 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 may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of a 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.” Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

The court has carefully reviewed the record and concurs in the recommendation of the Magistrate Judge. The court adopts the Report and Recommendation and incorporates it herein by reference. The within action is dismissed *with prejudice* pursuant to Rule 41(b) for failure to prosecute.

IT IS SO ORDERED.

/s/ Margaret B. Seymour
United States District Judge

Columbia, South Carolina

December 20, 2010.

NOTICE OF RIGHT TO APPEAL

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