

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

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U.S. DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA  
2014 JUL 16 P 3:38

Jamie Michael Gilbert, #335126, )  
)  
Petitioner, )  
)  
v. )  
)  
Warden of Lee Correctional Institution, )  
)  
Respondent. )  
\_\_\_\_\_ )

No. 2:13-cv-2734-RMG

**ORDER**

This matter is before the Court on the Report and Recommendation (“R&R”) of the Magistrate Judge recommending that the Court dismiss this petition with prejudice for lack of prosecution. (Dkt. No. 34). For the reasons set forth below, the Court adopts the R&R as the order of the Court.

**Background**

Petitioner, a state prisoner proceeding pro se and *in forma pauperis*, filed this petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Pursuant to 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2)(c) DSC, this matter was automatically referred to a United States Magistrate Judge for pretrial proceedings. On April 23, 2014, Respondent filed a motion for summary judgment. (Dkt. No. 28). The same day, the Magistrate Judge then entered a *Roseboro* order informing the Petitioner of the importance of filing an adequate response and the possible consequences of failing to respond. (Dkt. No. 30). Petitioner did not file a timely response to the motion for summary judgment. The Magistrate Judge then entered the present R&R recommending dismissal for failure to prosecute unless Petitioner filed a timely response to the R&R. (Dkt. No. 34). Petitioner has not filed a timely response to the R&R.

### **Discussion**

After review of the record and the R&R, the Court agrees with and adopts the R&R as the order of the Court. The Court agrees with the Magistrate Judge that this case is properly dismissed for failure to prosecute under Rule 41(b) of the Federal Rules of Civil Procedure.

### **Conclusion**

For the reasons set forth above, the Court adopts the R&R as the order of the Court. (Dkt. No. 34). Accordingly, this action is dismissed with prejudice for lack of prosecution pursuant to Rule 41(b) of the Federal Rules of Civil Procedure.

**AND IT IS SO ORDERED.**



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Richard Mark Gergel  
United States District Court Judge

July 10, 2014  
Charleston, South Carolina