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

Angel Pecheco, Plaintiff, vs. Marcia Fuller, *SCDC Dietician*; John and Jane Does, *Kershaw Cafeteria Supervisors*; Michael L. Fair, *Legislative Audit Council, et al.*; Boyd H. Parr, *Director of Poultry Products and Inspection*, *in their individual or personal capacities*, Defendants.	) Civil Action No. 2:13-cv-03229-JMC))))) **ORDER**)))))))))))

Plaintiff, Angel Pecheco ("Plaintiff'), while a prisoner in the Kershaw Correctional Institution ("KCI") of the South Carolina Department of Corrections ("SCDC") in Kershaw, South Carolina, submitted this Complaint [ECF No. 2], on August 23, 2013, in the case entitled McFadden, et al., v. Fuller, et al., C/A No. 2:13-2290-JMC-BHH (D.S.C.). The Complaint was signed by Plaintiff and by ninety additional Co-Plaintiffs, all of whom were state prisoners incarcerated at the time at KCI. Plaintiff's claims, filed pursuant to 42 U.S.C. § 1983, allege that the SCDC Defendants failed to provide adequate nutrition and food portions, that Defendant Fair failed to investigate the SCDC despite repeated requests by Co-Plaintiff Bernard McFadden, and that Defendant Parr failed to respond to Co-Plaintiff McFadden's inquiries.

On November 22, 2013, the undersigned United States District Judge issued an Order [ECF No. 1] separating the ninety-one cases for initial review. By Order dated

December 3, 2013 [ECF No. 6], United States Magistrate Judge Bruce Howe Hendricks, to whom this case was referred for initial review, ordered Plaintiff to bring this case into proper form by: (1) either paying the $350 filing fee or submitting an Application to Proceed Without Prepayment of Fees and Affidavit (Form AO 240) and a Financial Certificate, and (2) submitting proposed service documents for Defendants. Pursuant to General Order In Re: Procedures in Civil Actions Filed by Prisoner Pro Se Litigants, No. 3:07-mc-5014-JFA (D.S.C. Sept. 18, 2007), Plaintiff was given twenty-one (21) days from the date the Order was entered, plus three (3) days for mail time to comply with the Order. The Order was mailed to Plaintiff at his address of record, i.e. Angel Pecheco # 334159, Kershaw Correctional Institution, 4848 Gold Mine Highway, Kershaw, SC 29067. See ECF No. 7. Plaintiff was warned that his failure to provide the necessary information and documents within the timetable set forth in the Order would subject this case to dismissal. See Order, ECF No. 6, p. 1, 3.

On December 17, 2013, the mail addressed to Plaintiff at his KCI address was returned to this Court as undeliverable, with the envelope marked "Released, Forward to 32 Jamison Road, Greenville, SC 29611." See ECF No. 8. The Order was re-mailed to Plaintiff's forwarding address on December 17, 2013, and the deadline for complying with the Order was extended until January 10, 2014. See ECF Nos. 9, 10.

Plaintiff has failed to respond to the Order, and the time for responding lapsed on January 10, 2014. The mail in which the Order was sent to Plaintiff's forwarding address was not returned. Thus, the Court presumes that Plaintiff received the Order, but has neglected to comply with it within the time permitted under the Order. Plaintiff's lack of response to the Order indicates an intent to discontinue prosecuting this case and subjects

the case to dismissal. As Plaintiff has failed to prosecute this case and failed to comply with a court order, the case is **DISMISSED without prejudice** pursuant to Rule 41 of the Federal Rules of Civil Procedure. See Link v. Wabash R.R. Co., 370 U.S. 626, 629-36 (1962).

IT IS SO ORDERED.

J. Michelle Childs

United States District Judge

January 21, 2014
Greenville, South Carolina

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this Order within the time period set forth under Rules 3 and 4 of the Federal Rules of Appellate Procedure.