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

Harry D. Kitchen, Plaintiff, v. Joseph P. Riley, Jr., *et al.*, Defendants.	Civil Action No. 2:14-569-RMG **ORDER AND OPINION**

This matter is before the Court on the Report and Recommendation of the Magistrate Judge, recommending Plaintiff's claims be dismissed for lack of prosecution under Rule 41(b) of the Federal Rules of Civil Procedure.

Plaintiff, who proceeds *pro se*, alleges violations of his First and Fourteenth Amendment rights when police issued a noise violation citation and threatened to issue a panhandling citation in response to Plaintiff's busking at Market Street in Charleston, South Carolina. (*See* Dkt. No. 1-1.) On January 31, 2014, he filed the present action in the Charleston County Court of Common Pleas, naming as Defendants Mayor Joseph Riley, each member of the City Council, five police officers, four business owners or employees, and "other unnamed persons." (*Id.*) This case was removed to this Court on February 28, 2014. (Dkt. No. 1.) An amended complaint on March 24, 2014 added as Defendants four more police officers, two more business employees, and a municipal judge. On July 27, 2015, this case was stayed for 16 months, pursuant to *Younger v. Harris*, 401 U.S. 37 (1971), while Plaintiff's criminal case was litigated in state court. (Dkt. No. 105). On December 16, 2016—about two weeks after the stay was lifted—certain Defendants moved to dismiss. (Dkt. No. 121.)

Plaintiff has not responded to the motion to dismiss. The Magistrate Judge has exhaustively detailed in the Report and Recommendation the details of Plaintiff's failure to respond to Court orders or to keep the Court informed of his current address. (Dkt. No. 128 at 2–4.) Essentially, Plaintiff has filed nothing with this Court in over two years and the Court does not know where Plaintiff is located or how to contact him. On January 31, 2017, the Magistrate Judge therefore recommended dismissal with prejudice for lack of prosecution. Plaintiff has not filed any objections to the Report and Recommendation.

The Court fully agrees with the analysis and recommendation of the Magistrate Judge, and therefore **ADOPTS** the Report and Recommendation of the Magistrate Judge (Dkt. No. 128) as the Order of the Court and **DISMISSES WITH PREJUDICE** this action.

AND IT IS SO ORDERED.

Richard Mark Gergel
United States District Court Judge

February 21, 2017
Charleston, South Carolina