

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

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Willie Joe Sturkey,)
)
Plaintiff,)
)
vs.)
)
Brian Stirling, et. al.,)
)
Defendant.)
_____)

No. 2:15-cv-00789-RMG

ORDER

This matter comes before the Court on the Report and Recommendation (R & R) of the Magistrate Judge (Dkt. No. 38), recommending that this action be dismissed with prejudice pursuant to Fed. R. Civ. P. 41(b). Plaintiff has not filed objections to the R & R. For the reasons stated below, the Court the adopts the R & R and dismisses this action.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. *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.” 28 U.S.C. § 636(b)(1). This Court is charged with making a de novo determination of those portions of the R & R or specified proposed findings or recommendations to which objection is made. *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting 28 U.S.C. § 636(b)(1)); accord Fed. R. Civ. P. 72(b).

Here, however, because no objection has been made, this Court “must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” *Id.* (quoting Fed. R. Civ. P 72 advisory committee note). Moreover, in the absence of specific

objections to the R & R, the Court need not give any explanation for adopting the Magistrate Judge's analysis and recommendation. *See Camby v. Davis*, 718 F.2d 198, 199-200 (4th Cir. 1983).

Despite an explanation in a Roseboro Order that this case would be dismissed if Plaintiff failed to respond to Defendants' motion to dismiss (Dkt. No. 26) and a second order giving Plaintiff an additional 20 days to respond and advising Plaintiff that the case would be dismissed if he did not respond (Dkt. No. 35), Plaintiff has still not filed a response. Nor has he filed a response to the R & R recommending dismissal with prejudice.

Accordingly, the Court agrees with the Magistrate Judge that Plaintiff has satisfied all the criteria for dismissal pursuant to Rule 41(b) of the Federal Rules of Civil Procedure and the factors set forth in *Chandler Leasing Corp. v. Lopez*, 669 F.2d 919, 920 (4th Cir. 1982).

Therefore, the District Court **ADOPTS** the Magistrate Judge's R & R, (Dkt. No. 38), as the Order of this Court. Accordingly, this action is **DISMISSED** with prejudice pursuant to Fed. R. Civ. P. 41(b).

AND IT IS SO ORDERED.



Richard Mark Gergel
United States District Judge

November 2, 2015
Charleston, South Carolina