

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

Andre Bickens,

Petitioner,

v.

BJ Meeks, Warden of Williamsburg FCI,

Respondent.

C/A No. 2:16-2432-JFA-MGB

ORDER

On June 30, 2016, Andre Bickens (“Petitioner”) filed this action pursuant to 28 U.S.C. § 2241 against Respondent. On July 26, 2016, the U.S. Attorney General was served. ECF No. 9. On September 6, 2016, Respondent filed a motion to dismiss or, in the alternative, for summary judgment. ECF No. 10. In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2), D.S.C., the case was referred to the Magistrate Judge. *Id.* On September 7, 2016, the Magistrate Judge issued an order pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), explaining the importance of Respondent’s motion and providing Petitioner with thirty-four days to file an adequate response in opposition to the motion. ECF Nos. 11–12. However, Petitioner did not respond to Respondent’s motion. ECF No. 13. On October 28, 2016, the Magistrate Judge issued an order allowing Petitioner until November 17, 2016, to file a response to Respondent’s motion and advising Petitioner that, if he failed to respond, his suit would be subject to dismissal with prejudice for failure to prosecute or comply with the Court’s orders. *Id.* (citing Fed. R. Civ. P. 41(b); *Chandler Leasing Corp. v. Lopez*, 669 F.2d 919, 920 (4th Cir. 1982); *Ballard v. Carlson*, 882 F.2d 93 (4th Cir. 1989)).

The Magistrate Judge assigned to this action¹ prepared a thorough Report and Recommendation (“Report”) and opines that this Court should dismiss Plaintiff’s case for failure to prosecute. ECF No. 15. The Report sets forth in detail the relevant facts and standards of law on this matter, and this Court incorporates those facts and standards without a recitation. The parties were advised of their right to object to the Report, which was entered on the docket on November 28, 2016. ECF Nos. 15–16. The Magistrate Judge gave the parties until December 15, 2016, to file objections; however, no objections were filed. Thus, this matter is ripe for the Court’s review.

The Court is charged with making a de novo determination of those portions of the Report to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b)(1). In the absence of specific objections to the Report of the Magistrate Judge, this Court is not required to give an explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983).

“[F]ederal courts possess the inherent authority . . . to dismiss a lawsuit sua sponte for failure to prosecute.” *United States v. Moussaoui*, 483 F.3d 220, 236 (4th Cir. 2007) (citing *Link v. Wabash R.R. Co.*, 370 U.S. 626, 630–31 (1962)). “Inherent powers are ‘governed not by rule or statute but by the control necessarily vested in courts to manage their own affairs so as to achieve the orderly and expeditious disposition of cases.’” *Id.* Due to Petitioner’s failure to respond to Respondent’s motion or the Magistrate Judge’s orders for the last four (4) months, despite the warnings he has received of the possible consequences, the Court finds that Petitioner has failed

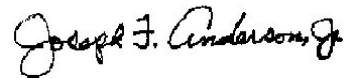
¹ The Magistrate Judge’s review is made in accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2) (D.S.C.). The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261 (1976).

to prosecute his case and this Court has the inherent power to dismiss same. *Link*, 370 U.S. at 629–31; *Custer v. Pan Am. Life Ins. Co.*, 12 F.3d 410, 415–16 (4th Cir. 1993); *See* D.S.C. Local Rule 7.06. Therefore, the Court finds that Plaintiff has abandoned his suit and good cause exists to dismiss this action.

After carefully reviewing the applicable laws, the record in this case, as well as the Report, this Court finds the Magistrate Judge’s recommendation fairly and accurately summarizes the facts and applies the correct principles of law. Accordingly, the Court adopts the Report and Recommendation (ECF No. 15) and dismisses Petitioner’s case with prejudice. Therefore, Respondent’s motion to dismiss or, in the alternative for summary judgment (ECF No. 10) is deemed moot.

IT IS SO ORDERED.

January 19, 2017
Columbia, South Carolina

A handwritten signature in black ink that reads "Joseph F. Anderson, Jr." in a cursive script.

Joseph F. Anderson, Jr.
United States District Judge