

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA

Donell J. Brown, #293480,	)	C/A No. 3:09-2240-JFA-JRM
	)	
Plaintiff,	)	
vs.	)	ORDER
	)	
Jon Ozmint,	)	
	)	
Defendant.	)	
_____	)	

The *pro se* plaintiff, Donell Brown, brings this action pursuant 42 U.S.C. § 1983 alleging that the defendant has violated his constitutional rights. At the time of the filing of this action, he was incarcerated at the South Carolina Department of Corrections.

The Magistrate Judge assigned to this action<sup>1</sup> has prepared a Report and Recommendation and opines that the complaint should be dismissed for failure to prosecute, in accordance with Rule 41(b) of the Federal Rules of Civil Procedure. The defendant filed a motion to dismiss and the court advised the plaintiff in a *Roseboro* order of the importance of his adequate response to the motion. *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975). Plaintiff did not respond. The Magistrate Judge issued another order on February 1, 2010 requesting that the plaintiff advise the court if he wished to continue with the prosecution of this action and allowing him fifteen additional days to respond to the defendants’ motion for

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<sup>1</sup> The Magistrate Judge’s review is made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02. 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). The court is charged with making a *de novo* determination of those portions of the Report and Recommendation 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).

summary judgment. The plaintiff did not respond.

The plaintiff was also advised of his right to file objections to the Report and Recommendation, which was entered on the docket on March 5, 2010. However, the plaintiff did not file any objections to the Report within the time limits prescribed. In fact, on March 15, 2010, the copy of the Report mailed to the plaintiff was returned from the U.S. Postmaster marked “Undeliverable.”

The Magistrate Judge has reviewed the matter and finds that plaintiff meets all of the criteria for dismissal under *Chandler Leasing Corp. v. Lopez*, 669 F.2d 919 (4th Cir. 1982).

After a careful review of the record, the applicable law, and the Report and Recommendation, the court finds the Magistrate Judge’s recommendation proper and incorporated herein by reference. Accordingly, this action is dismissed with prejudice for failure to prosecute under Rule 41(b).

IT IS SO ORDERED.



Joseph F. Anderson, Jr.  
United States District Judge

April 9, 2010  
Columbia, South Carolina