

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

Billy J. and Wendy J. Bellamy,)
)
Plaintiff,)
)
v.)
)
Countrywide Home Loans; Bank of)
America, N.A.; US Bank as Trustee)
for JP Morgan Trust 2006-S4; and)
any other parties known or unknown)
at this time, et al.,)
)
Defendants.)
_____)

Civil Action No.: 4:13-cv-3575-RBH

ORDER

Plaintiffs Billy J. and Wendy Bellamy (“Plaintiffs”) filed this action *pro se* in the South Carolina Court of Common Pleas for Horry County against Defendants Countrywide Home Loans; Bank of America, N.A.; US Bank as Trustee for JP Morgan Trust 2006-S4; and any other parties known or unknown at this time, et al. (“Defendants”). See Compl., ECF No. 1-1. Defendant’s removed the action to this court on December 23, 2013, *see* ECF No. 1, and filed a motion to dismiss pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure on December 27, 2013, *see* ECF No. 8.

As Plaintiffs are proceeding *pro se*, the Court entered an order on December 30, 2013 pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), advising Plaintiffs of the importance of a motion to dismiss and the need for them to file an adequate response. *See* Order, ECF No. 12. The Order explained that any response was due by February 3, 2013. *See id.* at 1. Plaintiffs were specifically advised that if they failed to respond adequately, Defendants’ motion may be granted, thereby ending their case. *Id.* Plaintiffs failed to respond to the motion to dismiss. Accordingly, on February 6, 2014, the Court ordered Plaintiffs to advise whether the intended to

continue with their case by February 28, 2014. *See* Order, ECF No. 16. Plaintiffs have not filed a response to this Order either.

The matter is before the Court for review of the Report and Recommendation (“R & R”) of United States Magistrate Judge Kaymani D. West, made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Rule 73.02 for the District of South Carolina. *See* R & R, ECF No. 21. In the Report and Recommendation, the Magistrate Judge recommends that the Court dismiss the action with prejudice for failure to prosecute, as it appears Plaintiffs do not oppose the motion to dismiss and wish to abandon their action against Defendants. *See id.* 2.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this Court. *See Mathews v. Weber*, 423 U.S. 261, 270-71 (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 with instructions. *See* 28 U.S.C. § 636(b)(1).

No party has filed objections to the Report and Recommendation. In the absence of objections to the Report and Recommendation of the Magistrate Judge, this Court is not required to give any explanation for adopting the recommendations. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). The Court reviews only for clear error in the absence of an objection. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct *de novo* review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation’”) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

After a thorough review of the record in this case, the Court finds no clear error. Accordingly, the Report and Recommendation of the Magistrate Judge is adopted and incorporated by reference. Therefore, it is **ORDERED** that the action is **DISMISSED**, *with prejudice*, for failure to prosecute.

IT IS SO ORDERED.

s/ R. Bryan Harwell
R. Bryan Harwell
United States District Judge

Florence, South Carolina
March 25, 2014