

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

James Michael Flemming, #229516,)	C/A No. 4:16-3497-TMC-TER
)	
Plaintiff,)	
)	ORDER
vs.)	
)	
South Carolina Department of Corrections,)	
Dutch Fork Magistrate Court,)	
)	
Defendants.)	
)	
)	

This case is before the Court because of Plaintiff's failure to comply with the magistrate judge's orders of October 28, 2016, and November 8, 2016. (ECF Nos. 5 and 12). A review of the record indicates that the magistrate judge ordered Plaintiff to submit items needed to render this case into proper form within twenty-one days, and specifically informed Plaintiff that if he failed to do so, this case would be subject to dismissal. The Court has not received any response from Plaintiff and the time for his compliance has passed.

The mail in which the orders were sent to Plaintiff at the address provided has not been returned to the court, thus it is presumed that Plaintiff received the orders, but has neglected to comply with the orders within the time permitted under the orders.

Plaintiff's lack of response indicates an intent to not prosecute this case, and subjects this case to dismissal. *See Fed. R. Civ. P. 41(b)* (district courts may dismiss an action if a Plaintiff fails to comply with an order of the court); *see also Ballard v. Carlson*, 882 F.2d 93, 95 (4th Cir. 1989) (dismissal with prejudice appropriate where warning given); *Chandler Leasing Corp. v. Lopez*, 669 F.2d 919, 920 (4th Cir. 1982) (court may dismiss *sua sponte*).

Accordingly, this case is dismissed without prejudice. The Clerk of Court shall close the file.

IT IS SO ORDERED.

s/Timothy M. Cain
United States District Judge

January 13, 2017
Anderson, South Carolina