

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

ARYEE HENDERSON,)	Civil Action No.: 4:17-cv-0287-BHH-TER
)	
Plaintiff,)	
)	
-vs-)	
)	ORDER
)	
MR. FEDD, Food Services Director;)	
CAPT. FRANKLIN RICHARDSON,)	
Prison Guard; LT. SHAW, Prison Guard;)	
SGT. WEST, Prison Guard; LT. SCOTT,)	
Prison Guard; and CPL. SHEPPARD,)	
Prison Guard;)	
)	
Defendants.)	
_____)	

Plaintiff, who is proceeding pro se, brings this action alleging various constitutional violations by Defendants. Presently before the court is Plaintiff’s Motion to Compel (ECF No. 52). All pretrial proceedings in this case were referred to the undersigned pursuant to the provisions of 28 U.S.C. § 636(b)(1)(A) and (B) and Local Rule 73.02(B)(2)(d), DSC.

Plaintiff seeks an order compelling Defendants to respond to his discovery requests, which were dated August 13, 2017, and received by Defendants thereafter. Defendants served Plaintiff with written objections, stating that Plaintiff’s discovery requests were untimely.

The scheduling order (ECF No. 42) states that “Discovery shall be completed no later than August 10, 2017. All discovery requests shall be served in time for the responses thereto to be served by this date.” Plaintiff did not mail his discovery requests until August 13, 2017. Plaintiff states generally in his motion that he was unable to meet the deadline due to state-wide lock downs, including Lee Correctional Institution, where he is housed. However, Plaintiff did not file a motion

for extension of time and raised the timeliness issue only after Defendants served their objections to his discovery requests. Thus, he fails to show excusable neglect for failing to timely serve his discovery requests on defendants. Accordingly, Plaintiff's Motion to Compel (ECF No. 52) is **DENIED.**

Defendants filed a Motion for Summary Judgment (ECF No. 54) on September 20, 2017. Because Plaintiff is proceeding pro se, he was advised pursuant to Roseboro v. Garrison, 528 F.3d 309 (4th Cir. 1975), that a failure to respond to Defendant's motion could result in dismissal of his Complaint. Plaintiff has not filed a response. Plaintiff has **ten days from the date of this Order to file a response to Defendants' Motion for Summary Judgment. Failure to file a response may result in a recommendation that this case be dismissed for failure to prosecute pursuant to Fed.R.Civ.P. 41(b).**

IT IS SO ORDERED.

s/Thomas E. Rogers, III
Thomas E. Rogers, III
United States Magistrate Judge

February 14, 2018
Florence, South Carolina