

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
ORANGEBURG DIVISION

James B. Weersing,)	C/A No. 5:13-3242-JMC
)	
Plaintiff,)	
)	
vs.)	ORDER
)	
Marcia Fuller;)	
John and Jane Does;)	
Michael L Fair, and)	
Boyd H. Parr,)	
)	
Defendants.)	
_____)	

This case is before the Court because of Plaintiff’s failure to comply with the magistrate judge’s Order of January 23, 2014. ECF No. 12.

A review of the record indicates that the magistrate judge originally assigned to this case ordered Plaintiff to submit items (Filing fee or Motion to Proceed in forma pauperis, completed service documents, and answers to special interrogatories) needed to render this case into proper form and provide sufficient information to permit a proper initial review within twenty-one days, and specifically informed Plaintiff that if he failed to do so, this case would be dismissed *without prejudice*. The mail in which the Court’s Order was sent to Plaintiff at the address he provided when he filed the case has not been returned, thus is presumed that Plaintiff received the Court’s most recent Order, but decided not to respond. Plaintiff’s lack of response to the Order indicates an intent to discontinue prosecution of this case.

Plaintiff’s failure to respond and his presumed intent to not continue prosecuting 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 "any 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.¹

IT IS SO ORDERED.



J. Michelle Childs
United States District Judge

May 2, 2014
Greenville, South Carolina

¹ Under General Order, Misc. No. 3:07-5014-JFA, this dismissal *without prejudice* does *not* count as a “strike” for purposes of the “three strikes” provision of 28 U.S.C. § 1915(g). If Plaintiff wishes to bring this action in the future, he should obtain new forms for doing so from the Clerk’s Office in Columbia (**901 Richland Street, Columbia, South Carolina 29201**).

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this Order within the time period set forth under Rules 3 and 4 of the Federal Rules of Appellate Procedure.
