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

James L. Davis,	)	
	)	C/A No. 6:11-0331-MBS
Plaintiff,	)	
	)	
vs.	)	**O R D E R**
	)	
York County Detention Center,	)	
	)	
Defendant.	)	
	)	

Plaintiff James L. Davis in an inmate in custody of the South Carolina Department of Corrections. Plaintiff, proceeding pro se, filed a complaint in the Court of Common Pleas for York County, South Carolina, on September 29, 2010, alleging that he was exposed to tuberculosis while in the York County Detention Center. Plaintiff brings this action pursuant to 42 U.S.C. § 1983. Defendant removed the action to this court on February 9, 2011. In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this case was referred to United States Magistrate Judge Kevin F. McDonald for pretrial handling.

Defendant filed a motion for summary judgment on May 5, 2011. Pursuant to Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975), Plaintiff was advised of the summary judgment procedure and the possible consequences of failing to respond adequately. Plaintiff filed no response to Defendant's motion. On September 28, 2011, the Magistrate Judge issued an order in which he granted Plaintiff until October 25, 2011 to respond to Defendant's motion for summary judgment. The Magistrate Judge advised Plaintiff that the within action would be subject to dismissal pursuant to Fed. R. Civ. P. 41(b) if he failed to respond. Plaintiff did not file a response. Accordingly, the Magistrate Judge filed a Report of Magistrate Judge on October 27, 2011, in which he recommended

that the complaint be dismissed for lack of prosecution pursuant to Rule 41(b). Plaintiff filed no objections to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). The court is charged with making a de novo determination of any portions of the Report and Recommendation to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of a timely filed objection, a district court need not conduct a 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." Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

The court has thoroughly reviewed the record. It appears that Plaintiff has abandoned the within action. The court concurs with the Magistrate Judge and incorporates the Report of Magistrate Judge herein by reference. The complaint is dismissed *with prejudice* pursuant to Rule 41(b).

IT IS SO ORDERED.

/s/ Margaret B. Seymour
United States District Judge

Columbia, South Carolina
November 30, 2011.

NOTICE OF RIGHT TO APPEAL
Plaintiff is hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.