

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

Michael Joseph Kaminski,)	Civil Action No.: 6:17-cv-02469-RBH
)	
Plaintiff,)	
)	
v.)	ORDER
)	
Officer Morrison, Cpl. Catchot, and)	
Randy Demory,)	
)	
Defendants.)	
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This matter is before the Court for review of the Report and Recommendation (“R & R”) of United States Magistrate Judge Kevin F. McDonald, made in accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2) (D.S.C.). *See* ECF No. 53. The Magistrate Judge recommends that the Court dismiss this case for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b).¹

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and 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 R & R 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); Fed. R. Civ. P. 72(b).

No party has filed objections to the R & R, and the time for doing so has expired.² In the absence of objections to the R & R, the Court is not required to give any explanation for adopting the

¹ The R & R indicates the dismissal should be with prejudice, which is consistent with the language of Rule 41(b). *See* Fed. R. Civ. P. 41(b) (“[A] dismissal under this subdivision (b) . . . operates as an adjudication on the merits.”).

² Plaintiff’s objections were due by May 18, 2018. *See* ECF Nos. 53 & 54.

Magistrate Judge's recommendations. *See Camby v. Davis*, 718 F.2d 198, 199–200 (4th Cir. 1983). The Court reviews only for clear error in the absence of an objection. *See Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (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 and hereby adopts and incorporates by reference the Magistrate Judge's R & R [ECF No. 53]. Accordingly, the Court **DISMISSES** this action *with prejudice* for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b). Defendants' motion to dismiss, or alternatively, for summary judgment [ECF No. 40] is **MOOT**.

IT IS SO ORDERED.

Florence, South Carolina
June 6, 2018

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