

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

Hope F. Small,
Plaintiff,
v.
Brian Blackwell; City of Union.
Defendants.
C.A. No. 7:10-cv-00468-JMC
ORDER

This is a civil action filed by pro se Plaintiff Hope F. Small. In his Report and Recommendation [Doc. 60] filed on February 26, 2010, the Magistrate Judge recommends that the court grant Defendants Brian Blackwell and the City of Union's ("Defendants") Motion to Dismiss [Doc. 49] under Rule 41(b) of the Federal Rules of Civil Procedure for lack of prosecution as the plaintiff failed to respond to discovery requests and failed to appear for her scheduled deposition. The Report and Recommendation sets forth the relevant facts, which this court incorporates herein without a recitation.

The Magistrate Judge's Report and Recommendation is made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 for the District of South Carolina. The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. 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 Report and Recommendation to which specific objection is made, and the court may accept, reject, or modify, in whole or in part, the Magistrate Judge's recommendation or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The Magistrate Judge advised Plaintiff of her right to file objections to the Report and Recommendation. [Doc. 60-1, at 1]. However, Plaintiff filed no objections to the Report and

Recommendation.

In the absence of objections to the Magistrate Judge's Report and Recommendation, this court is not required to provide an explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Rather, "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) (quoting Fed. R. Civ. P. 72 advisory committee's note). Furthermore, failure to file specific written objections to the Report and Recommendation results in a party's waiver of the right to appeal from the judgment of the District Court based upon such recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984).

After a thorough review of the Magistrate Judge's Report and Recommendation, the court adopts the Magistrate Judge's Report and Recommendation [Doc. 60] and incorporates it herein. Accordingly, the court **GRANTS** Defendants' Motion to Dismiss. [Doc. 49]. This action is hereby **DISMISSED** *with prejudice* for lack of prosecution under Rule 41(b) of the Federal Rules of Civil Procedure.

**IT IS SO ORDERED.**

s/ J. Michelle Childs  
United States District Judge

Greenville, South Carolina  
June 8, 2011