

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

Edgardo Gallardo, a/k/a Pablo Valladares,)	Civil Action No.: 7:12-1547-MGL
)	
Plaintiff,)	
)	
v.)	
)	
Spartanburg Administrator, County of; Detective)	
David Taylor; Assistant Solicitor Donnie Willing;)	<u>ORDER</u>
Solicitor Trey Gowdy, III; Honorable J. Derham)	
Cole; Attorney General Henry McMaster; and Jon)	
Ozmit, Director of SCDC ¹ ,)	
)	
Defendants.)	
_____)	

On February 25, 2013, Defendants filed a motion for summary judgment. (ECF No. 60.) On February 26, 2013, pursuant to *Roseboro v. Garrison*, *pro se* Plaintiff Edgardo Gallardo was advised of the summary judgment/dismissal procedure and the possible consequences if he failed to adequately respond to Defendants’ motion. (ECF No. 61.) On March 18, 2013, the *Roseboro* order was returned to the Clerk’s office marked Undeliverable/Return to Sender/Unclaimed/Unable to Forward. Because Plaintiff was directed on June 19, 2012 to keep the court apprised of his current address (ECF No. 7), the Magistrate Judge filed a Report and Recommendation that the complaint be dismissed pursuant to F.R.C.P. 41(b). (ECF No. 65.)

On April 22, 2013, Report and Recommendation (ECF No. 65) was returned to the Clerk’s office marked Undeliverable/Return to Sender/Unclaimed/Unable to Forward. On May 1, 2013, *pro se* Plaintiff filed a change of address (ECF No. 70) notifying the Court of his relocation to Mexico which was docketed upon receipt by the Clerk’s office. The envelope was postmarked

¹On October 19, 2012, Plaintiff’s Complaint was dismissed as to Defendants Honorable J. Derham Cole, County of Spartanburg Administrator, Attorney General Henry McMaster, and Director of SCDC Jon Ozmit. (ECF No. 35)

March 7, 2013. Plaintiff also filed a Motion to Adopt Pursuant to 28 U.S.C. §1646 (ECF No. 69), which the Court has construed as a motion to continue his current case.

In light of the most recent filings and in the interest of justice, the Court is directing the clerk to vacate the Report and Recommendation (ECF No. 65) and recommit this case to the Magistrate Judge. In order to preserve Plaintiff's rights and reset the deadlines, the clerk is directed to moot Defendants' Motion for Summary Judgment (ECF No. 60) and to re-file the Motion for Summary Judgment and the *Roseboro* order (ECF No. 61), setting the response due date to **70 days** from the date of this order to be received by the Clerk's Office on **July 23, 2013**. In addition, the clerk shall send the newly issued *Roseboro* order and Defendants' renewed motion for summary judgment to the plaintiff in a manner designed to ensure prompt delivery. Plaintiff's Motion to Adopt Pursuant to 28 U.S.C. § 1646 (ECF No. 69) is granted to the extent Plaintiff seeks to continue prosecuting this case and desires this court to take notice of his new address.

IT IS SO ORDERED.

s/Mary G. Lewis
United States District Judge

May 14, 2013
Spartanburg, South Carolina