

IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE DISTRICT OF SOUTH CAROLINA  
ANDERSON/GREENWOOD DIVISION

Xavier Parks,

Plaintiff,

vs.

Jon Ozmint, et al.

Defendant.

) Civil Action No.: 8:10-01554-RMG-BHH  
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**ORDER**

The plaintiff brought this action seeking relief pursuant to Title 42, United States Code, Section 1983. On December 2, 2010, the defendants filed a motion for summary judgment. By order of this court filed December 2, 2010, pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), the plaintiff was advised of the summary judgment procedure and the possible consequences if he failed to respond adequately. Despite this explanation, the plaintiff elected not to respond to the motion.

As the plaintiff has failed to respond to the motion for summary judgment, it appears to the court that he wishes to abandon this action. Therefore,

IT IS ORDERED that the plaintiff shall have through February 18, 2011, in which to file his response to the motion for summary judgment. The plaintiff is advised that if he fails to respond, this action will be subject to dismissal for failure to prosecute pursuant to F. R. Civ. P. 41(b), and for failure to comply with this Court's orders, pursuant to Rule 41(b) of the Federal Rules of Civil Procedure and the factors outlined in *Chandler Leasing Corp. v. Lopez*, 669 F.2d 919, 920 (4th Cir.1982). See *Ballard v. Carlson*, 882 F.2d 93 (4th Cir.

1989). The dismissal will be considered an adjudication on the merits, i.e., *with prejudice*.

IT IS SO ORDERED.

s/Bruce Howe Hendricks  
United States Magistrate Judge

January 26, 2011  
Greenville, South Carolina