

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

James Roberts Rozier,)	Civil Action No.: 8:12-504-MGL
)	
Plaintiff,)	
)	
v.)	<u>ORDER</u>
)	
Officer Eddie Smith, Capt. and Jimmy)	
Boggs, Officer, in their individual capacity,)	
)	
Defendants.)	
_____)	

Plaintiff James Roberts Rozier ("Plaintiff"), proceeding *pro se*, filed this action pursuant to 42 U.S.C. § 1983 on February 23, 2012, against Defendants alleging violations of his constitutional rights. (ECF No. 1.) At the time of the underlying events, Plaintiff was a pre-trial detainee incarcerated at the Greenwood County Detention Center. Defendants deny Plaintiffs' allegations.

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Bristow Marchant for pretrial handling. On October 1, 2012 an order was mailed to the parties advising them that they had twenty (20) days from the entry date of this order to file dispositive motions. Plaintiff's copy of this order was mailed to his last known address. On October 22, 2012 the envelope containing Plaintiff's copy of the October 1, 2012 order was returned to the Clerk of Court, marked "RTS" [Return to Sender] "Released". On October 23, 2012, the Magistrate Judge issued a Report and Recommendation recommending this case be dismissed pursuant to Rule 41(b) of the Federal Rules of Civil Procedure on the grounds that Plaintiff failed to prosecute the case. (ECF No. 37.) A copy of the Report and Recommendation was mailed to Plaintiff on October 23, 2012 at his last known address.

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, 96 S.Ct. 549, 46 L.Ed.2d 483 (1976). The court may accept, reject, or modify, in whole or in part, the Report and Recommendation or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of objections to the Report, this court is not required to give any explanation for adopting the recommendation. *Camby v. Davis*, 718 F.2d 198, 199 (4th Cir.1983). No objections have been filed to the Report and Recommendation.

Plaintiff was advised of his right to file objections to the Report and Recommendation. (ECF No. 37 at 3.) However, he has not done so and objections were due on November 9, 2012. 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).

Plaintiff has failed to comply with this Court’s Order of March 12, 2012. Plaintiff was advised by order filed March 12, 2012 of his responsibility to notify the court in writing if his address changed. Plaintiff was informed that his case could be dismissed for failing to comply with the court's order. It appears that Plaintiff no longer wishes to pursue this action. Accordingly, the court accepts the Report and Recommendation

After careful review of the record, the applicable law, and the Report and Recommendation, the within action is hereby DISMISSED with prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure.

IT IS SO ORDERED.

Spartanburg, South Carolina
November 16, 2012

/s/Mary G. Lewis
United States District Judge