

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

Richard Simmons,)	Civil Action No.: 8:14-cv-03827-JMC-JDA
)	
)	
)	
)	
vs.)	<u>ORDER</u>
)	
Joseph McFadden,)	
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Petitioner brought this action seeking relief pursuant to 28 U.S.C. § 2254. On January 21, 2015, Respondent filed a motion for summary judgment. [Doc. 19.] By Order of this Court filed the same day pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), Petitioner was advised of the summary judgment/dismissal procedure and the possible consequences if he failed to respond adequately. [Doc. 21.] Despite this explanation, Petitioner elected not to respond to the motion.

As Petitioner 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 Petitioner shall have through March 23, 2015, to file his response to the motion for summary judgment. Petitioner is advised that if he fails to respond, this action will be subject to dismissal for failure to prosecute pursuant to Fed. 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/Jacquelyn D. Austin
United States Magistrate Judge

March 3, 2015
Greenville, South Carolina