

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

Mark Edward Rourk, #196341,)	C/A NO. 9:12-3497-CMC-BM
)	
Plaintiff,)	
)	OPINION and ORDER
v.)	
)	
Lieber Correctional Inst., Capital Prosthesis)	
and Medline Industries Inc.,)	
)	
Defendants.)	
_____)	

This matter is before the court on Plaintiff’s complaint filed in the court pursuant to 42 U.S.C. § 1983. The complaint also contains claims of products liability and medical malpractice.

In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02 (B)(2)(d), DSC, this matter was referred to United States Magistrate Judge Jacquelyn D. Austin for pre-trial proceedings and a Report and Recommendation (“Report”). On March 19, 2013, the Magistrate Judge issued a Report recommending that this matter be dismissed with prejudice due to Plaintiff’s failure to prosecute this action. The Magistrate Judge advised Plaintiff of the procedures and requirements for filing objections to the Report and the serious consequences if he failed to do so. Additionally, this court, out of an abundance of caution, extended the time for Plaintiff to respond to Defendants’ summary judgment motion, specifically warning Plaintiff that failure to respond would result in dismissal of this action with prejudice. The court has received no further communications from Plaintiff and the time for doing so has expired.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *See Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of any portion of the Report of the Magistrate Judge to which a specific objection is

made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b). The court reviews the Report only for clear error in the absence of an objection. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “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.”) (citation omitted).

After reviewing the record of this matter, the applicable law, and the Report and Recommendation of the Magistrate Judge, the court agrees with the conclusion of the Report that this matter should be dismissed with prejudice for failure to prosecute pursuant to Rule 41(b).

IT IS SO ORDERED.

s/ Cameron McGowan Currie
CAMERON MCGOWAN CURRIE
UNITED STATES DISTRICT JUDGE

Columbia, South Carolina
September 3, 2013