

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

James Dewayne Sanlin, #00030371,)	
)	C/A No. 9:20-0296
Plaintiff,)	
)	
vs.)	
)	
Cherokee County Detention Center,)	ORDER AND OPINION
Sheriff Muller, Major Anderson, and)	
Captain Wells,)	
)	
Defendants.)	
_____)	

At the time of the underlying events, Plaintiff James Dewayne Sanlin was a pretrial detainee at the Cherokee County Detention Center. Plaintiff, proceeding pro se, filed a complaint on January 27, 2020, alleging that he was denied adequate medical care after he fell in the shower. 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 March 16, 2020, the Magistrate Judge issued a proper form order in which he described why the complaint, as filed, failed to name a proper defendant and to give such defendant(s) adequate notice of any claim against them. The Magistrate Judge provided Plaintiff an opportunity to amend his complaint to cure the pleading deficiencies. The Magistrate Judge also directed Plaintiff to complete, sign, and return a Form USM-285 for each Defendant, and to keep the Clerk of Court apprised in writing of any change of address. The Magistrate Judge cautioned Plaintiff that failure to comply with the proper form order could result in the case being dismissed pursuant to Fed. R. Civ. P. 41.

Also on March 16, 2020, a copy of Standing Order 3:20-mc-105 (In re: Court Operations in

Response to COVID-19) was mailed to Plaintiff. On March 30, 2020, Plaintiff provided the court with Forms USM-285, along with a letter indicating that Plaintiff was unable to obtain the information needed to file an amended complaint. Plaintiff's letter was construed as a motion to appoint counsel. On April 14, 2020, the envelope containing Plaintiff's copy of the Standing Order was returned to the Clerk's Office, marked "RETURN TO SENDER - ATTEMPTED - NOT KNOWN - UNABLE TO FORWARD."

On April 24, 2020, the Magistrate Judge entered a Report and Recommendation in which he recommended that the action be dismissed pursuant to Rule 41(b) for Plaintiff's failure to comply with the March 16, 2020 proper form order. The envelope containing Plaintiff's copy of the Report and Recommendation was returned to the Clerk's Office on April 18, 2020, marked "RETURN TO SENDER - ATTEMPTED - NOT KNOWN - UNABLE TO FORWARD."

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 (1976). This court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the Magistrate Judge. 28 U.S.C. § 636(b)(1). This court may also receive further evidence or recommit the matter to the Magistrate Judge with instructions. Id. 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).

The court has thoroughly reviewed the record. The court concurs in the Report and Recommendation and incorporates it herein by reference. Plaintiff's complaint is **dismissed**,

without prejudice, for failure to comply with the Magistrate Judge's March 16, 2020 proper form order. See Fed. R. Civ. 41(b). Plaintiff's motion to appoint counsel (ECF No. 14) is **denied as moot**.

IT IS SO ORDERED.

/s/ Margaret B. Seymour
Senior United States District Judge

Charleston, South Carolina

May 28, 2020.