

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

Willie Ritter,)	Civil Action No: 9:23-cv-00038-TLW
)	
Plaintiff,)	
)	
v.)	
)	ORDER
South Carolina Department of Parole)	
and Pardon Services, South Carolina)	
Department of Corrections, Lee)	
Correctional Institution, Jerry Adger,)	
Brian Stirling, Kimberly Yon, Kenneth)	
Nelson, Aurrah Rodgers, Aaron Joyner.)	
)	
Defendants.)	
)	

On January 5, 2023, Plaintiff Willie Ritter filed this civil rights action pursuant to 42 U.S.C. § 1983 against the above-named Defendants. ECF No. 1. Plaintiff's complaint notes that, at the time of filing, he was 79 years old and serving a twenty-year sentence in the custody of the South Carolina Department of Corrections ("SCDC"). ECF No. 10 at 7. Plaintiff's complaint alleges claims related to the diagnosis and treatment of his cataracts during his incarceration. *Id.* Since filing his lawsuit, Plaintiff was released from SCDC custody. ECF No. 15 at 2 n. 2. Moreover, the Court has been notified that Plaintiff is now deceased. ECF Nos. 17 & 18.

After Plaintiff filed this action, it was referred to the Magistrate Judge Molly H. Cherry for initial review pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02, (D.S.C.). On February 9, 2023, after reviewing Plaintiff's complaint, the Magistrate Judge issued a Proper Form Order, which provided Plaintiff the

necessary information and paperwork for bringing his action into proper form. ECF No. 7. Specifically, in order to proceed with his suit, the Magistrate Judge requested that Plaintiff complete and submit the necessary summons forms and Forms USM-285. *Id.*

In response, Plaintiff submitted some of the necessary forms, filed an amended complaint, and moved for the appointment of counsel. ECF Nos. 10 & 11. Finding that Plaintiff's action was still not in proper form, the Magistrate Judge issued a second Proper Form Order on August 21, 2023. ECF No. 13. This order specifically directed Plaintiff to provide both a summons form listing the above-named Defendants and a completed and signed Form USM-285s for several of the Defendants. *Id.* The order advised Plaintiff that his case would be subject to dismissal should he fail to comply with the Proper Form Orders. *Id.*

On October 15, 2023, the Magistrate Judge issued a Report and Recommendation ("Report"), which recommends Plaintiff's action be dismissed without prejudice pursuant to Rule 41 of the Federal Rules of Civil Procedure for failure to comply with the Proper Form Orders. ECF No. 15. The Report again provided the Plaintiff with the opportunity to comply with the outstanding Proper Form Orders. *Id.* It also gave Plaintiff time to file objections to the Report for this Court's review. *Id.* Plaintiff has not complied with the Proper Form Orders, nor has he filed objections to the Report.

As noted, Plaintiff was released from the SCDC's custody while this matter was pending and the record before the Court reflects that he has subsequently

passed away. He is therefore unable to either comply with the Proper Form Orders or continue to prosecute this action. Accordingly, the Court accept the Magistrate Judge's Report and concludes that this action should be dismissed without prejudice pursuant to Rule 41.¹

IT IS SO ORDERED.

s/Terry L. Wooten
Senior United States District Judge

November 13, 2023
Columbia, South Carolina

¹ Plaintiff's motion requesting the appointment of counsel, ECF No. 11, is denied as moot.