

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Richmond Division**

**KERRY LEE WINSLOW,**

Plaintiff,

v.

Civil Action No. **3:09CV184**

**GENE M. JOHNSON, et al.,**

Defendants.

**MEMORANDUM OPINION**

Plaintiff, a Virginia prisoner, filed this civil rights action. By Memorandum Order entered on March 23, 2010, the Court dismissed all but one of Plaintiff's claims, and referred Plaintiff's remaining claim against Defendant Meredith to the Honorable M. Hannah Lauck for further proceedings. On June 30, 2010, the Honorable M. Hannah Lauck issued a Report and Recommendation recommending that Plaintiff's remaining claim be dismissed without prejudice for Plaintiff's failure to respond to the Court's order to submit documentary evidence in anticipation of an evidentiary hearing. *See* Fed. R. Civ. P. 41(b) (authorizing dismissal for failure to prosecute an action). Plaintiff has not responded to the Report and Recommendation.

"The magistrate makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with this court." *Estrada v. Witkowski*, 816 F. Supp. 408, 410 (D.S.C. 1993) (*citing Mathews v. Weber*, 423 U.S. 261, 270-71 (1976)). This Court "shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b)(1). "The filing of objections to a magistrate's report enables the district judge to focus attention on those issues-factual and legal-that are at the heart of the parties' dispute."

*Thomas v. Arn*, 474 U.S. 140, 147 (1985). This Court may adopt without *de novo* review any portion of the magistrate judge's recommendation to which the parties do not raise a specific objection. See *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 316 (4th Cir. 2005).

There being no objections, the Report and Recommendation will be ACCEPTED. The action will be DISMISSED WITHOUT PREJUDICE.

An appropriate Order shall issue.

<p><i>/s/</i> Richard L. Williams United States District Judge</p>
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Date: JUL 22 2010  
Richmond, Virginia