

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

Wesley L. Givens v. Willington, A/W People, Frank Ocean, Cpt.
Spikes

Givens · No. 9:24-cv-00762-DCC · Decided April 22, 2026

SUMMARY

The United States District Court for the District of South Carolina dismissed Wesley L. Givens’s pro se action without prejudice under Federal Rule of Civil Procedure 41(b) for failure to prosecute. The court adopted the magistrate judge’s Report and Recommendation after Plaintiff failed to respond to the supplemental summary judgment motion or file objections, and found no clear error.

CASE DETAILS

COURT	United States District Court for the District of South Carolina, Beaufort Division
WRITING FOR THE COURT	Donald C. Coggins, Jr.
JURISDICTION	United States District Court for the District of South Carolina, Beaufort Division
DECIDED	April 22, 2026
DOCKET	9:24-cv-00762-DCC
DISPOSITION	dismissed
PROCEDURAL POSTURE	The district court reviewed a magistrate judge's Report and Recommendation recommending dismissal without prejudice for failure to prosecute after Plaintiff failed to respond to Defendants' supplemental motion for summary judgment and failed to file objections.
STANDARD OF REVIEW	In the absence of specific objections, clear-error review of the Report and Recommendation; specific objections would require de novo review under 28 U.S.C. § 636(b).
PRECEDENTIAL VALUE	Unknown; district court order with no reporter citation and no stated precedential designation.
PARTIES	Wesley L. Givens v. Willington, A/W People, Frank Ocean, Cpt. Spikes

TOPICS

civil procedure

summary judgment

PRACTICE AREAS

civil procedure

civil rights

QUESTIONS PRESENTED

1. Whether the court should accept the magistrate judge's recommendation to dismiss the action for failure to prosecute when Plaintiff filed no objections.
2. Whether the supplemental motion for summary judgment remained for decision after dismissal of the action.

HOLDINGS

1. When no timely objection is filed, the district court reviews the Report and Recommendation for clear error and may accept it if the record reveals no clear error.
2. The action was dismissed without prejudice under Federal Rule of Civil Procedure 41(b) because Plaintiff failed to respond to the supplemental summary-judgment motion and failed to prosecute the action.
3. The supplemental motion for summary judgment was moot following dismissal of the action.

KEY QUOTATIONS

“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.”

FACTUAL BACKGROUND

Plaintiff proceeded pro se in an action against the named Defendants. Defendants filed a supplemental motion for summary judgment, but Plaintiff did not respond despite receiving a Roseboro notice explaining the summary-judgment and dismissal procedure and the consequences of failing to respond. Plaintiff also failed to object to the magistrate judge's recommendation that the action be dismissed for failure to prosecute.

PROCEDURAL HISTORY

Plaintiff filed a pro se complaint. Defendants filed a supplemental motion for summary judgment, and the court issued a Roseboro notice advising Plaintiff of the applicable procedure and consequences of failing to respond. Plaintiff did not respond. The magistrate judge recommended dismissal without prejudice under Federal Rule of Civil Procedure 41(b), and Plaintiff filed no objections. The district court reviewed the Report for clear error, adopted its recommendation, dismissed the action, and found the supplemental summary-judgment motion moot.

DISPOSITION

dismissed

CASES CITED

- Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975)
- Mathews v. Weber, 423 U.S. 261 (1976)
- Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005)

OPINION

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH CAROLINA
BEAUFORT DIVISION Wesley L. Givens,) Case No. 9:24-cv-00762-DCC) Plaintiff,)) v.)
ORDER) Willington, A/W People, Frank Ocean,) Cpt. Spikes,)) Defendants.))
_____) This matter is before the Court upon Plaintiff's pro se
Complaint. ECF No. 1.

In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2), (D.S.C.), this matter was referred to United States Magistrate Judge Molly H. Cherry for pre-trial proceedings and a Report and Recommendation ("Report").

On December 9, 2025, Defendants filed a supplemental motion for summary judgment. ECF No. 85. On December 10, 2025, this Court issued an order pursuant to Roseboro v. Garrison, 528 F.2d 309 (4th Cir.1975), advising Plaintiff of the summary judgment/dismissal procedure and the possible consequences for failing to respond adequately. ECF No. 87. Plaintiff did not respond to the motion.

On February 20, 2026, the Magistrate Judge issued a Report recommending that this action be dismissed without prejudice pursuant to Federal Rule of Civil Procedure 41(b) for failure to prosecute. ECF No. 89. The Magistrate Judge advised the Plaintiff of the procedures and requirements for filing objections to the Report and the serious consequences for failing to do so.

Plaintiff did not file objections to the Report, and the time to do so has lapsed. 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 will review 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 considering the record in this case, the applicable law, and the Report of the Magistrate Judge, the Court finds no clear error and agrees with the recommendation of the Magistrate Judge. Accordingly, this action is DISMISSED pursuant to Federal Rule of Civil Procedure 41(b).1 IT IS SO ORDERED. s/ Donald C. Coggins, Jr. United States District Judge April 22, 2026 1 The supplemental motion for summary judgment [85] is FOUND as MOOT.

Spartanburg, South Carolina