

**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.

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