

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH
CAROLINA

Jeffery L. Penley v. Barnwell County Department of Correction
County Jail

Penley · No. 1:25-3295-JD-SVH · Decided December 30, 2025

SUMMARY

A United States Magistrate Judge recommends dismissing Jeffery L. Penley’s civil rights action against the Barnwell County Department of Correction County Jail for failure to prosecute. The recommendation follows Plaintiff’s failure to respond to the Defendant’s motion to dismiss or comply with subsequent court deadlines, despite warnings that the case could be dismissed.

CASE DETAILS

COURT	United States District Court for the District of South Carolina
WRITING FOR THE COURT	Shiva V. Hodges
JURISDICTION	United States District Court for the District of South Carolina
DECIDED	December 30, 2025
DOCKET	1:25-3295-JD-SVH
DISPOSITION	dismissed
PROCEDURAL POSTURE	Report and recommendation on Defendant's motion to dismiss Plaintiff's second amended complaint for failure to prosecute.
STANDARD OF REVIEW	If no timely specific objection is filed to a report and recommendation, the district court need only review the recommendation for clear error on the face of the record rather than conduct de novo review.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Jeffery L. Penley v. Barnwell County Department of Correction County Jail

TOPICS

- motions to dismiss
- civil procedure
- section 1983
- prisoners rights
- civil rights

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Plaintiff's repeated failure to respond to Defendant's motion to dismiss and comply with court orders warranted dismissal of the action for failure to prosecute under Federal Rule of Civil Procedure 41(b).

HOLDINGS

1. The court recommended dismissal of the action because Plaintiff repeatedly failed to respond to Defendant's motion to dismiss or comply with orders directing him to do so, despite specific warnings and an extension of time.

KEY QUOTATIONS

“Based on the foregoing, the undersigned recommends this case be dismissed for failure to prosecute.”

FACTUAL BACKGROUND

Plaintiff alleged that Barnwell County Department of Correction County Jail violated his constitutional rights. After Defendant moved to dismiss the second amended complaint, Plaintiff failed to file a response by the court-ordered deadline. Although the court later gave Plaintiff another opportunity to respond and granted an extension, Plaintiff filed no response and was warned that no further extensions would be granted.

PROCEDURAL HISTORY

Plaintiff filed the action on April 18, 2025, and a second amended complaint on July 7, 2025. Defendant moved to dismiss on August 20, 2025. After Plaintiff failed to respond despite warnings, an additional order, and an extension of time, the magistrate judge recommended dismissal for failure to prosecute.

DISPOSITION

dismissed

CASES CITED

- Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975)
- Davis v. Williams, 588 F.2d 69, 70 (4th Cir. 1978)
- Diamond v. Colonial Life & Accident Insurance Co., 416 F.3d 310 (4th Cir. 2005)
- Thomas v. Arn, 474 U.S. 140 (1985)
- Wright v. Collins, 766 F.2d 841 (4th Cir. 1985)
- United States v. Schronce, 727 F.2d 91 (4th Cir. 1984)

OPINION

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH CAROLINA
Jeffery L. Penley,) C/A No.: 1:25-3295-JD-SVH) Plaintiff,)) vs.)) REPORT AND Barnwell
County Department of) RECOMMENDATION Correction County Jail,)) Defendant.)) Plaintiff
filed a complaint on April 18, 2025, and a second amended complaint on July 7, 2025, alleging
violation of his constitutional rights by Barnwell County Department of Correction County Jail
("Defendant").

[ECF Nos. 1, 19]. On August 20, 2025, Defendant filed a motion to dismiss Plaintiff's second
amended complaint. [ECF No. 27]. As Plaintiff is proceeding pro se, the court entered an order
pursuant to, 528 F.2d 309 (4th Cir. 1975), advising him of the importance of the motion and of the
need for him to file an adequate response by September 22, 2025. [ECF No. 28].

Plaintiff was specifically advised that if he failed to respond adequately, the motion may be
granted. Notwithstanding the specific warning and instructions set forth in the court's order,
Plaintiff failed to respond to Defendant's motion.

On September 26, 2025, the court ordered Plaintiff to advise by October 10, 2025, whether he
wished to continue with this case. [ECF No. 31]. Plaintiff was further advised that if he failed to
respond, the undersigned would recommend this case be dismissed for failure to prosecute.

On October 14, 2025, Plaintiff filed a motion for an extension and the court permitted him until
November 6, 2025, to file a response. [ECF Nos. 33, 35]. The court also warned Plaintiff that no
further extensions would be granted. Plaintiff filed no response.

As such, it appears to the court that he does not oppose the motion and wishes to abandon this
case. Based on the foregoing, the undersigned recommends this case be dismissed for failure to
prosecute. See *Davis v. Williams*, 588 F.2d 69, 70 (4th Cir. 1978); Fed. R. Civ. P. 41(b). IT IS SO
RECOMMENDED. SP Ut Slalger December 30, 2025 Shiva V. Hodges Columbia, South Carolina
United States Magistrate Judge The parties are directed to note the important information in the
attached "Notice of Right to File Objections to Report and Recommendation." Notice of Right to
File Objections to Report and Recommendation The parties are advised that they may file specific
written objections to this Report and Recommendation with the District Judge.

Objections must specifically identify the portions of the Report and Recommendation to which
objections are made and the basis for such objections. "[I]n 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.'", 416 F.3d 310
(4th Cir.

2005) (quoting Fed. R. Civ. P. 72 advisory committee's note). Specific written objections must be
filed within fourteen (14) days of the date of service of this Report and Recommendation. 28
U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b); Fed. R. Civ. P. 6(a), (d). Filing by mail pursuant to

Federal Rule of Civil Procedure 5 may be accomplished by mailing objections to: Robin L. Blume, Clerk United States District Court 901 Richland Street Columbia, South Carolina 29201 Failure to timely file specific written objections to this Report and Recommendation will result in waiver of the right to appeal from a judgment of the District Court based upon such Recommendation.

28 U.S.C. § 636(b)(1);, 474 U.S. 140 (1985);, 766 F.2d 841 (4th Cir. 1985);, 727 F.2d 91 (4th Cir. 1984).