

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH
CAROLINA

Justin R. Mitchell v. Samuel H. Ervin

Mitchell v. Ervin · No. 4:25-cv-5288-BHH · Decided March 19, 2026

SUMMARY

The United States District Court for the District of South Carolina adopts the Magistrate Judge’s report and recommendation and dismisses Plaintiff Justin R. Mitchell’s 42 U.S.C. § 1983 action without prejudice for lack of prosecution under Federal Rule of Civil Procedure 41(b). The Court reviews the recommendation for clear error because no objections were filed and finds no clear error.

CASE DETAILS

COURT	United States District Court for the District of South Carolina
WRITING FOR THE COURT	Bruce H. Hendricks
JURISDICTION	United States District Court for the District of South Carolina
DECIDED	March 19, 2026
DOCKET	4:25-cv-5288-BHH
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 submit a required status report and filed no objections.
STANDARD OF REVIEW	Clear-error review of the magistrate judge's report and recommendation because no specific objections were filed; de novo review applies only to portions subject to specific objections.
PRECEDENTIAL VALUE	Unpublished district court order; precedential status not stated.
PARTIES	Justin R. Mitchell v. Samuel H. Ervin

TOPICS

- civil procedure
- section 1983

PRACTICE AREAS

- civil procedure
- civil rights
- pro se litigation

QUESTIONS PRESENTED

1. Whether the district court should adopt the magistrate judge's report and recommendation when no objections were filed.
2. Whether the action should be dismissed without prejudice for lack of prosecution under Federal Rule of Civil Procedure 41(b).

HOLDINGS

1. When no specific objections are filed, the district court reviews the magistrate judge's recommendation for clear error rather than conducting de novo review.
2. The action was properly dismissed without prejudice for lack of prosecution under Federal Rule of Civil Procedure 41(b) because Plaintiff failed to comply with the magistrate judge's order to provide a status report and appeared to have abandoned the action.

KEY QUOTATIONS

“The Court is charged with making a de novo determination only of those portions of the Report to which specific objections are made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to the Magistrate Judge with instructions.” (2)

“Accordingly, the Court adopts the Magistrate Judge’s Report (ECF No. 39) and dismisses this case without prejudice for lack of prosecution pursuant to Rule 41(b) of the Federal Rules of Civil Procedure.” (2)

FACTUAL BACKGROUND

Plaintiff filed a pro se civil-rights complaint under 42 U.S.C. § 1983. The magistrate judge directed Plaintiff to provide a status report within fourteen days stating whether he intended to pursue the action, but Plaintiff did not file one. The magistrate judge concluded that Plaintiff appeared to have abandoned the action and recommended dismissal without prejudice for lack of prosecution.

PROCEDURAL HISTORY

Plaintiff filed a pro se action under 42 U.S.C. § 1983 on June 11, 2025. After Plaintiff failed to provide a status report as ordered, the magistrate judge recommended dismissal without prejudice for lack of prosecution under Federal Rule of Civil Procedure 41(b). No objections were filed, so the district court reviewed the recommendation for clear error, adopted it, and dismissed the action without prejudice.

DISPOSITION

dismissed

CASES CITED

- Mathews v. Weber, 423 U.S. 261 (1976)
- Diamond v. Colonial Life & Accident Insurance Co., 416 F.3d 310, 315 (4th Cir. 2005)

OPINION

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH CAROLINA
Justin R. Mitchell,)) Plaintiff,)) Civil Action No. 4:25-cv-5288-BHH v.)) ORDER Samuel H.
Ervin,)) Defendant.) _____) This matter is before the Court
upon Plaintiff Justin R. Mitchell's ("Plaintiff") pro se complaint, which was filed on June 11,
2025, pursuant to 42 U.S.C. § 1983.

(ECF No. 1.) The matter was referred to a United States Magistrate Judge for preliminary review in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02(B)(2), D.S.C. On January 13, 2026, the Magistrate Judge issued an order directing Plaintiff to provide a status report within fourteen days indicating whether he intended to pursue this action. (ECF No. 34.)

Plaintiff did not file a status report. On February 12, 2026, the Magistrate Judge issued a report and recommendation ("Report"), outlining the issues and recommending that the Court dismiss this action without prejudice for lack of prosecution pursuant to Rule 41(b) of the Federal Rules of Civil Procedure. (ECF No. 39.) Attached to the Magistrate Judge's Report was a notice advising the parties of the right to file written objections to the Report within fourteen days of being served with a copy.

To date, no objections have been filed. The Magistrate Judge makes only a recommendation to the Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261 (1976).

The Court is charged with making a de novo determination only of those portions of the Report to which specific objections are made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1).

In the absence of specific objections, the Court reviews the matter only for clear error. 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.'") (quoting Fed.

R. Civ. P. 72 advisory committee's note). Here, because no objections have been filed, the Court has reviewed the record, the applicable law, and the findings of the Magistrate Judge for clear error. After review, the Court finds no clear error and agrees with the Magistrate Judge that it appears that Plaintiff has abandoned this action.

Accordingly, the Court adopts the Magistrate Judge's Report (ECF No. 39) and dismisses this case without prejudice for lack of prosecution pursuant to Rule 41(b) of the Federal Rules of Civil

Procedure. IT IS SO ORDERED. /s/Bruce H. Hendricks United States District Judge March 19, 2026 Charleston, South Carolina 2

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