

**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

OPINION

Clements

PER CURIAM.

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