

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH
CAROLINA, ANDERSON/GREENWOOD DIVISION

Charles Grady Shehan, Jr. v. Kathy White, Shana Peeler, Allane
Roach, and Malina Brackles

Shehan · No. 8:25-cv-06661-JDA · Decided November 24, 2025

SUMMARY

The United States District Court for the District of South Carolina adopted a magistrate judge’s recommendation and dismissed Charles Grady Shehan, Jr.’s 42 U.S.C. § 1983 action without issuance or service of process, without leave to amend, and without prejudice. The court denied Plaintiff’s motion for an extension of time and appointment of counsel, concluding that he failed to prosecute and alternatively failed to state a claim.

CASE DETAILS

COURT	United States District Court for the District of South Carolina, Anderson/Greenwood Division
WRITING FOR THE COURT	Jacquelyn D. Austin
JURISDICTION	United States District Court for the District of South Carolina, Anderson/Greenwood Division
DECIDED	November 24, 2025
DOCKET	8:25-cv-06661-JDA
DISPOSITION	dismissed
PROCEDURAL POSTURE	The district court reviewed a magistrate judge's Report and Recommendation recommending dismissal of a pro se prisoner's 42 U.S.C. § 1983 action without issuance and service of process, without leave to amend, and without prejudice. The plaintiff filed no objections but later moved for an extension of time and appointment of counsel.
STANDARD OF REVIEW	In the absence of a timely specific objection, the district court ordinarily reviews a magistrate judge's report for clear error. The court nevertheless conducted a de novo review of the Report, record, and applicable law.
PRECEDENTIAL VALUE	unreported district court opinion; precedential status unknown

PARTIES

Charles Grady Shehan, Jr. v. Kathy White, Shana Peeler, Allane Roach, Malina Brackles

TOPICS

section 1983 civil procedure pleadings

PRACTICE AREAS

civil rights civil procedure prisoner litigation

QUESTIONS PRESENTED

1. Whether the district court should accept the magistrate judge's recommendation to dismiss the action without issuance or service of process, without leave to amend, and without prejudice after the plaintiff failed to file a required second amended complaint and failed to state a claim.
2. Whether the plaintiff was entitled to an extension of time to object to the Report and Recommendation.
3. Whether the plaintiff was entitled to appointment of counsel in the civil § 1983 action.

HOLDINGS

1. When a party does not file a timely specific objection to a magistrate judge's Report and Recommendation, the district court need only satisfy itself that there is no clear error on the face of the record before accepting the recommendation.
2. The action was properly dismissed without issuance or service of process, without leave to amend, and without prejudice because the plaintiff failed to prosecute by not filing the required second amended complaint and the amended complaint failed to state a claim.
3. The plaintiff was not entitled to an extension of time because he identified no reason supporting the request and did not comply with Local Civil Rule 6.01, D.S.C.
4. The plaintiff was not entitled to appointed counsel because he identified no exceptional circumstances warranting appointment in the civil action.

KEY QUOTATIONS

"The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court."

"Nevertheless, out of an abundance of caution for the pro se Plaintiff, the Court has conducted a de novo review of the Report, the record, and the applicable law."

FACTUAL BACKGROUND

The plaintiff brought a pro se § 1983 action against Kathy White, Shana Peeler, Allane Roach, and Malina Brackles. The magistrate judge determined that the amended complaint alleged no facts against the named defendants and that the allegations concerning the underlying events were too vague and conclusory to state a

claim. The plaintiff failed to file a second amended complaint by the court-ordered deadline and did not timely object to the Report and Recommendation.

PROCEDURAL HISTORY

The plaintiff filed a § 1983 complaint on July 2, 2025, followed by an amended complaint on July 18, 2025, after the court notified him that the original complaint was subject to summary dismissal. The court later warned that the amended complaint would also be subject to dismissal unless a second amended complaint correcting identified deficiencies was filed by October 14, 2025. After the plaintiff failed to file a second amended complaint or objections to the magistrate judge's Report, the magistrate judge recommended dismissal under Federal Rule of Civil Procedure 41(b), alternatively for failure to state a claim. The district court denied the plaintiff's motion for an extension and appointment of counsel, conducted a de novo review, accepted the Report, and dismissed the action without prejudice.

DISPOSITION

dismissed

CASES CITED

- Mathews v. Weber, 423 U.S. 261, 270–71
- Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005)
- Whisenant v. Yuam, 739 F.2d 160, 163 (4th Cir. 1984)
- Jenkins v. Woodard, 109 F.4th 242, 248 (4th Cir. 2024)

OPINION

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF SOUTH CAROLINA ANDERSON/GREENWOOD DIVISION) Charles Grady Shehan, Jr.,) Case No. 8:25-cv-06661-JDA)) OPINION AND ORDER Plaintiff,)) v.)) Kathy White, Shana Peeler,) Allane Roach, Malina Brackles,)) Defendant.) This matter is before the Court on Plaintiff's Amended Complaint, a Report and Recommendation ("Report") of the Magistrate Judge, and Plaintiff's motion to appoint counsel and for extension.

[Docs. 11; 17; 20.] 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 William S. Brown for pre-trial proceedings. On July 2, 2025, the Clerk docketed Plaintiff's Complaint in this action brought pursuant to 42 U.S.C. § 1983. [Doc. 1.]

After the Court issued an Order notifying Plaintiff that his Complaint was subject to summary dismissal for reasons the Order identified [Doc. 9], the Clerk docketed an Amended Complaint from Plaintiff on July 18, 2025 [Doc. 11]. By Order dated September 22, 2025, the Court notified Plaintiff that his Amended Complaint was also subject to summary dismissal for reasons the Order identified and warned Plaintiff that his action would be recommended for summary dismissal

without further leave to amend if he failed to file a second amended complaint by October 14, 2025, correcting those deficiencies.

[Doc. 14.] After Plaintiff failed to do so, the Magistrate Judge issued a Report on October 24, 2025, recommending that the action be dismissed without issuance and service of process and without leave to amend for failure to prosecute under Rule 41(b) of the Federal Rules of Civil Procedure and, alternatively, for failure to state a claim.¹ [Doc. 17.]

The Magistrate Judge advised Plaintiff of the procedures and requirements for filing objections to the Report and the serious consequences if he failed to do so. [Id. at 11.] Plaintiff has not filed objections, and the time for doing so has expired.

On November 17, 2025, however, the Clerk docketed a motion from Plaintiff in which he “[r]equest[ed] more time to comply with Magistrate Judge William S. Brown” and also requested appointment of counsel. [Doc. 20.] 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, 270–71 (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 1 Regarding the failure of the Amended Complaint to state a claim, the Report explains that Plaintiff makes no allegations against the named Defendants and, in any event, the allegations of the events underlying his claim are too vague and conclusory to state a claim for relief.

[Id. at 7–10.] 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” (internal quotation marks omitted)). Regarding Plaintiff’s motion for extension of time to file objections and his motion for appointment of counsel, Plaintiff identifies no reason why he is entitled to either, nor does he otherwise comply with the applicable Local Civil Rule 6.01, D.S.C. (providing that motions for enlargement of time must be accompanied by a statement giving the reasons therefor and should include the proposed date of the new deadline).

[See generally Doc. 20.] Accordingly, Plaintiff’s request for an extension and for appointment of counsel are denied.² Nevertheless, out of an abundance of caution for the *pro se* Plaintiff, the

Court has conducted a de novo review of the Report, the record, and the applicable law. Upon such review, the Court accepts the Report and Recommendation of the Magistrate Judge and incorporates it by reference.

Accordingly, this action is DISMISSED without issuance or service of process, without leave to amend, and without prejudice. Plaintiff's motion to appoint counsel and for extension [Doc. 20] is DENIED. 2 There is no constitutional right to appointed counsel in a civil case. Whisenant v. Yuam, 739 F.2d 160, 163 (4th Cir. 1971).

Although the Court may exercise its discretion to appoint counsel for litigants proceeding pro se, see 28 U.S.C. 1915(e)(1), it may do so only in exceptional circumstances, see Jenkins v. Woodard, 109 F.4th 242, 248 (4th Cir. 2024) ("The district court must... assess (1) whether the plaintiff asserts a claim that is not frivolous, (2) the difficulty of the claim, and (3) whether the plaintiff can present the claim considering the skill required to do so and the plaintiff's individual abilities.").

Plaintiff's request does not raise any exceptional circumstances that would justify the appointment of counsel. IT IS SO ORDERED. s/ Jacquelyn D. Austin United States District Judge November 24, 2025 Greenville, South Carolina NOTICE OF RIGHT TO APPEAL Plaintiff is hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.