

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

Dawn McGuire Smith v. Greenwood County Sheriff's Office; Dennis
Kelly; and Cody Bishop

Smith v. Greenwood County Sheriff's Office · No. 8:25-cv-6124-TMC · Decided April 23, 2026

SUMMARY

The United States District Court for the District of South Carolina adopted a magistrate judge’s Report and Recommendation and dismissed the action with prejudice under Federal Rule of Civil Procedure 41(b) for failure to prosecute. The court noted that the plaintiff had not participated in discovery or mediation, had not opposed summary judgment, and had not objected to the Report. The court alternatively agreed that summary judgment was warranted because of deficiencies involving exhaustion, timeliness, and the alleged privilege applicable to the malicious prosecution claim.

CASE DETAILS

COURT	United States District Court for the District of South Carolina, Anderson/Greenwood Division
WRITING FOR THE COURT	Timothy M. Cain
JURISDICTION	United States District Court for the District of South Carolina, Anderson/Greenwood Division
DECIDED	April 23, 2026
DOCKET	8:25-cv-6124-TMC
DISPOSITION	dismissed
PROCEDURAL POSTURE	After removal from state court, the district court reviewed a magistrate judge's Report and Recommendation recommending dismissal with prejudice for failure to prosecute and, alternatively, summary judgment for Defendants. Plaintiff filed no objections.
STANDARD OF REVIEW	In the absence of specific objections to a magistrate judge's report and recommendation, the district court reviews the record for clear error rather than conducting de novo review.
PRECEDENTIAL VALUE	unpublished district court order

TOPICS

civil procedure

sanctions

summary judgment

title vii

employment discrimination

PRACTICE AREAS

civil procedure

employment law

civil rights

torts

QUESTIONS PRESENTED

1. Whether the district court could accept the magistrate judge's Report and Recommendation under a clear-error standard when Plaintiff filed no specific objections.
2. Whether dismissal with prejudice was warranted under Federal Rule of Civil Procedure 41(b) for Plaintiff's failure to prosecute.
3. Whether Defendants were alternatively entitled to summary judgment on Plaintiff's SCHAL, malicious-prosecution, and Title VII claims.

HOLDINGS

1. When a party files no timely specific objections 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. Dismissal with prejudice under Federal Rule of Civil Procedure 41(b) was warranted because Plaintiff failed to prosecute the action by not participating in discovery, mediation, or briefing on Defendants' summary-judgment motion.
3. Summary judgment would also be appropriate for the reasons stated in the magistrate judge's Report and Recommendation, including the asserted defects in Plaintiff's SCHAL, malicious-prosecution, and Title VII claims.

KEY QUOTATIONS

"This action is hereby DISMISSED with prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure for failure to prosecute."

FACTUAL BACKGROUND

Plaintiff asserted state-law sex-discrimination and malicious-prosecution claims and a Title VII race-discrimination claim. After removal, Plaintiff did not respond to Defendants' discovery requests, did not participate in mediation, and did not oppose Defendants' motion for summary judgment. Plaintiff also failed to object to the magistrate judge's Report and Recommendation.

PROCEDURAL HISTORY

Plaintiff filed suit in South Carolina state court on March 7, 2025, asserting claims for sex discrimination under the South Carolina Human Affairs Law, malicious prosecution, and race discrimination under Title VII. Defendants removed the action to federal court, and the matter was referred to a magistrate judge for pretrial proceedings. After Plaintiff failed to participate in discovery, mediation, or briefing on Defendants' summary-

judgment motion, the magistrate judge recommended dismissal with prejudice under Federal Rule of Civil Procedure 41(b), alternatively recommending summary judgment. Plaintiff filed no objections, and the district court found no clear error, adopted the Report, and dismissed the action with prejudice.

DISPOSITION

dismissed

CASES CITED

- Wimmer v. Cook, 774 F.2d 68, 72 (4th Cir. 1985)
- Mathews v. Weber, 423 U.S. 261, 270–71 (1976)
- Farmer v. McBride, 177 Fed. App’x 327, 330–31 (4th Cir. Apr. 26, 2006)
- Orpiano v. Johnson, 687 F.2d 44, 47 (4th Cir. 1982)
- Elijah v. Dunbar, 66 F.4th 454, 460 (4th Cir. 2023)
- United States v. Midgette, 478 F.3d 616, 622 (4th Cir. 2007)
- Lockert v. Faulkner, 843 F.2d 1015, 1019 (7th Cir. 1988)
- Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005)
- Greenspan v. Bros. Prop. Corp., 103 F. Supp. 3d 734, 737 (D.S.C. 2015)
- Camby v. Davis, 718 F.2d 198, 199–200 (4th Cir. 1983)
- Martin v. Duffy, 858 F.3d 239, 245 (4th Cir. 2017)

OPINION

Dawn McGuire Smith v. Greenwood County Sheriff’s Office; Dennis Kelly; and Cody Bishop
PER CURIAM.

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

Dawn McGuire Smith,)) Plaintiff,)) vs.) Civil Action No. 8:25-cv-6124-TMC)

ORDER

Greenwood County Sheriff’s Office;) Dennis Kelly; and Cody Bishop,)) Defendants.)
_____) Plaintiff filed this action in state court on March 7,
2025, asserting three claims against Defendants: sex discrimination under the South Carolina
Human Affairs Law, S.C. Code § 1-13- 10, et seq. (“SCHAL”). Id. at 5–6, ¶¶ 16–19. Second,
Plaintiff asserts a claim at Count Two for malicious prosecution. Id. at 6, ¶¶ 20–23. Third, Plaintiff
asserts a claim at Count Three for race discrimination under Title VII. Id. at 6–7, ¶¶ 24–30. As to
her damages, Plaintiff contends she suffered lost wages and benefits; future loss of earning
capacity; emotional distress, mental anguish, and humiliation; reputational harm; out-of-pocket
expenses including legal fees; and she seeks back pay and benefits; compensatory damages;
punitive damages; and attorney’s fees and costs. Id. at 7–8, ¶¶ 31–32. Plaintiff seeks declaratory

and injunctive relief in addition to compensatory and punitive damages. (ECF No. 1-1). Defendants subsequently removed this action to federal court, (ECF No. 1), whereupon, in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02(B)(2)(g) (D.S.C.), this matter was automatically referred to a magistrate judge for all pretrial proceedings. On January 7, 2026, after having received no responses from Plaintiff to their discovery requests, Defendants filed a motion for summary judgment. (ECF No. 15). Plaintiff, who is represented by legal counsel, did not file any opposition to the motion for summary judgment or respond in any way. Now before the Court is the magistrate judge's Report and Recommendation ("Report") finding that Plaintiff has not engaged in discovery, has not participated in mediation, and has not responded to Defendants' Motion for Summary Judgment, and recommending that this action be dismissed with prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure for failure to prosecute this action. (ECF No. 18 at 6–7, 16). Additionally, the magistrate judge concluded that Plaintiff's claim under the SCHAL is barred for failing to timely file a complaint under S.C. Code § 1-13-90(a) and to exhaust her administrative remedies; that Plaintiff's claim for malicious prosecution fails because it rests on communications that are privileged by S.C. Code. Ann. § 23-23-90 and, therefore, cannot support a malicious prosecution claim as alleged in the complaint; and that Plaintiff failed to exhaust her administrative remedies, requiring the dismissal of her Title VII claim. *Id.* at 11–15. Accordingly, the Report makes the alternative recommendation that the court grant Defendants' motion for summary judgment. *Id.* at 16. Plaintiff was advised of the right to file objections to the Report and of the potential consequences of failing to do so in a timely manner. *Id.* at 17. Nonetheless, Plaintiff has not objected or otherwise responded, and the time for doing so has expired. The magistrate judge's recommendation has no presumptive weight, and the responsibility for making a final determination remains with the United States District Court. *Wimmer v. Cook*, 774 F.2d 68, 72 (4th Cir. 1985) (quoting *Mathews v. Weber*, 423 U.S. 261, 270–71 (1976)). Nevertheless, "[t]he district court is only required to review de novo those portions of the report to which specific objections have been made, and need not conduct de novo review 'when a party makes general and conclusory objections that do not direct the court to a specific error in the magistrate judge's proposed findings and recommendations.'" *Farmer v. McBride*, 177 Fed. App'x 327, 330–31 (4th Cir. April 26, 2006) (quoting *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982)); see also *Elijah v. Dunbar*, 66 F.4th 454, 460 (4th Cir. 2023) (noting "an objecting party 'must object to the finding or recommendation on that issue with sufficient specificity so as reasonably to alert the district court of the true ground for the objection'" and "'an objection stating only 'I object' preserves no issue for review'" (quoting *United States v. Midgette*, 478 F.3d 616, 622 (4th Cir. 2007); *Lockert v. Faulkner*, 843 F.2d 1015, 1019 (7th Cir. 1988))). Thus, "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.'" *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 Advisory Committee's note). The Court may accept, reject, or

modify, in whole or in part, the recommendation made by the magistrate judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1). However, in the absence of specific objections to the Report and Recommendation, this Court is not required to give any explanation for adopting the recommendation. *Greenspan v. Bros. Prop. Corp.*, 103 F. Supp. 3d 734, 737 (D.S.C. 2015) (citing *Camby v. Davis*, 718 F.2d 198, 199–200 (4th Cir. 1983)). Furthermore, failure to file specific written objections to the Report results in a party's waiver of the right to appeal the district court's judgment based upon that recommendation. See *Elijah*, 66 F.4th at 460 (quoting *Lockert*, 843 F.2d at 1019); *Martin v. Duffy*, 858 F.3d 239, 245 (4th Cir. 2017). Having carefully reviewed the Report and the record, the Court finds no clear error and perceives no basis for deviating from the findings, conclusions and recommendations of the magistrate judge. Accordingly, the Court ADOPTS the Report (ECF No. 18) and incorporates it herein. This action is hereby DISMISSED with prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure for failure to prosecute.¹ IT IS SO ORDERED. s/Timothy M. Cain Chief United States District Judge April 23, 2026 Anderson, South Carolina

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure. 1 In the alternative, the court agrees with the magistrate judge that summary judgment would also be appropriate for the reasons set forth in the Report.