

**UNPUBLISHED****UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT**

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**No. 22-6218**

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JAMES EDWARD ROSE, JR.,

Plaintiff – Appellant,

v.

STATE OF SOUTH CAROLINA; BERKELEY COUNTY SHERIFF'S OFFICE; HILL-FINKLEA DETENTION CENTER; R. MARKLEY DENNIS, JR.; DEADRA L. JEFFERSON; WILTON MCNEELY; BRANDON D. LATULLIP; T. DODD; BERKELEY COUNTY JAIL KEEPERS; RONNIE J. RUSSEL; PAULA FECHELM MCELVEGUE; B. WATSON; HENRY'S TOWING; HENRY LEGETTE; BAD BOYZ BAIL BONDS; MARIE FULLER; BO WILSON; RANDY DEMORY; ANTHONY PHYALL; KRIS JACUMIN; SERGEANT DOZER; OFFICER STALEY; K. SHULER; DEBRA K. LITTLEJOHN; JUDGE PRIOLEAU; OFFICER A. LIZZONO; GARY WASIELEUSKI,

Defendants – Appellees.

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Appeal from the United States District Court for the District of South Carolina, at Charleston. J. Michelle Childs, District Judge. (2:21-cv-02909-JMC)

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Submitted: May 19, 2022

Decided: May 24, 2022

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Before MOTZ and HARRIS, Circuit Judges, and TRAXLER, Senior Circuit Judge.

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Affirmed by unpublished per curiam opinion.

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James Edward Rose, Jr., Appellant Pro Se.

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Unpublished opinions are not binding precedent in this circuit.

## PER CURIAM:

James Edward Rose, Jr., a pretrial detainee, appeals the district court's order dismissing without prejudice his civil rights action for failure to prosecute pursuant to Fed. R. Civ. P. 41(b).\* We have reviewed the record and find no reversible error. Accordingly, we affirm the district court's judgment. *Rose v. South Carolina*, No. 2:21-cv-02909-JMC (D.S.C. Feb. 11, 2022). We deny Rose's motion for appointment of counsel. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

*AFFIRMED*

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\* Because the defect identified by the district court—failure to prosecute or comply with a court order—is “unrelated to the contents of the pleadings,” we conclude that the district court’s order is final and appealable. *Goode v. Cent. Va. Legal Aid Soc’y, Inc.*, 807 F.3d 619, 624 (4th Cir. 2015), *abrogated in part on other grounds by Bing v. Brivo Sys., LLC*, 959 F.3d 605, 611-12 (4th Cir. 2020) (discussing factors this court considers in determining whether order is final and appealable), *cert. denied*, 141 S. Ct. 1376 (2021).

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
CHARLESTON DIVISION**

James Edward Rose, Jr., #1432,	)	Civil Action No.: 2:21-cv-002909-JMC
	)	
Plaintiff,	)	
	)	<b>ORDER</b>
v.	)	
	)	
State of South Carolina, Berkeley County	)	
Sheriff's Office, Hill-Finklea Detention	)	
Center, R. Markley Dennis, Jr., Deadra L.	)	
Jefferson, Wilton McNeely, Brandon D.	)	
Latullip, T. Dodd, Berkeley County Jail	)	
Keepers, Ronnie J. Russel, Paula Fehelm	)	
McElvegue, B. Watson, Henry's Towing,	)	
Henry Legette, Bad Boyz Bail Bonds,	)	
Marie Fuller, Bo Wilson, Randy Demory,	)	
Anthony Phyall, Kris Jacumin, Sergeant	)	
Dozer, Officer Staley, K. Shuler, Debra K.	)	
Littlejohn, Judge Prioleau, Officer A.	)	
Lizzono, Gary Wasieleuski,	)	
	)	
Defendants.	)	

This is a civil action filed by a pretrial detainee. This case is before the court due to Plaintiff's failure to comply with either the Magistrate Judge's Proper Form Order (ECF No. 9) or the Magistrate Judge's order to submit service documents (ECF No. 24).

The orders were sent to Plaintiff's provided address and have not been returned as undeliverable to the court, thus it is presumed that Plaintiff received the Magistrate Judge's orders but has neglected to comply within the time permitted. A review of the record indicates that the Magistrate Judge specifically informed Plaintiff that if he failed to comply with the Magistrate Judge's instructions, this case would be subject to dismissal.

Plaintiff's lack of response to the Order indicates an intent to not prosecute this case and subjects this case to dismissal. *See Fed. R. Civ. P. 41(b)* (district courts may dismiss an action if

a plaintiff fails to comply with an order of the court); *see also Ballard v. Carlson*, 882 F.2d 93, 95 (4th Cir. 1989) (affirming district court's dismissal of action for failure to comply with a court order); *Robertson v. Anderson Mill Elementary Sch.*, 989 F.3d 282, 291 (4th Cir. 2021) (explaining that district courts may dismiss inadequate complaints *sua sponte* as long as the plaintiff has been provided notice and opportunity to amend the complaint).

Accordingly, the court **DISMISSES** this case without prejudice.

**IT IS SO ORDERED.**



United States District Judge

February 10, 2022  
Columbia, South Carolina

FILED: August 26, 2022

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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No. 22-6218  
(2:21-cv-02909-JMC)

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JAMES EDWARD ROSE, JR.

Plaintiff - Appellant

v.

STATE OF SOUTH CAROLINA; BERKELEY COUNTY SHERIFF'S OFFICE; HILL-FINKLEA DETENTION CENTER; R. MARKLEY DENNIS, JR.; DEADRA L. JEFFERSON; WILTON MCNEELY; BRANDON D. LATULLIP; T. DODD; BERKELEY COUNTY JAIL KEEPERS; RONNIE J. RUSSEL; PAULA FECHELM MCELVEGUE; B. WATSON; HENRY'S TOWING; HENRY LEGETTE; BAD BOYZ BAIL BONDS; MARIE FULLER; BO WILSON; RANDY DEMORY; ANTHONY PHYALL; KRIS JACUMIN; SERGEANT DOZER; OFFICER STALEY; K. SHULER; DEBRA K. LITTLEJOHN; JUDGE PRIOLEAU; OFFICER A. LIZZONO; GARY WASIELEUSKI

Defendants - Appellees

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O R D E R

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The court denies the petition for rehearing and rehearing en banc. No judge requested a poll under Fed. R. App. P. 35 on the petition for rehearing en banc.

Entered at the direction of the panel: Judge Motz, Judge Harris, and Senior Judge Traxler.

For the Court

/s/ Patricia S. Connor, Clerk

**Additional material  
from this filing is  
available in the  
Clerk's Office.**