

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

GIOVAN ARCAMONE,

Petitioner,

v.

//

CIVIL ACTION NO. 1:08cv166
(Judge Keeley)

WAYNE A. PHILLIPS, Warden,

Respondent.

ORDER ADOPTING REPORT AND RECOMMENDATION

On August 8, 2008, pro se petitioner, Giovan Arcamone ("Arcamone"), at that time an inmate at Federal Correctional Institution in Morgantown West Virginia ("FCI-Morgantown"), filed a petition for habeas corpus pursuant to 28 U.S.C. § 2241 and a motion to vacate a prison disciplinary proceeding. In his petition and motion, Arcamone challenges the outcome of a disciplinary proceeding that resulted in his losing good time credit. The Court referred this matter to United States Magistrate Judge John S. Kaul for initial screening and a report and recommendation ("R&R") in accordance with Local Rule of Prisoner Litigation 83.09.

On December 1, 2008, the respondent, Wayne Phillips ("Phillips"), the Warden of FCI-Morgantown, filed a motion to dismiss the petition, or in the alternative, a motion for summary judgment. On January 21, 2009, Magistrate Judge Kaul issued an R&R recommending that Phillips's motion be granted and Arcamone's motion and § 2241 petition be denied and the case be dismissed. The Magistrate Judge concluded that evidence supported the Disciplinary Hearing Officer's finding that Arcamone had violated

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a prison rule, and that the rule violated in this case is not void for vagueness.

The Report and Recommendation also specifically warned that failure to object to the recommendation would result in the waiver of any appellate rights on this issue. No objections were filed.¹

Therefore, the Court **ADOPTS** the R&R in its entirety (dkt. no. 22), **GRANTS** Phillips's motion to dismiss, or in the alternative, for summary judgment (dkt. no. 17), **DENIES** Arcamone's motion to vacate the prison disciplinary proceeding (dkt. no. 2), **DISMISSES WITH PREJUDICE** his § 2241 petition and **ORDERS** the case stricken from the Court's docket.

It is so **ORDERED**.

The Clerk is directed to transmit a copy of this Order to counsel of record, and to mail a copy to the pro se petitioner, certified mail, return receipt requested.

Dated: February 17, 2009.

/s/ Irene M. Keeley
IRENE M. KEELEY
UNITED STATES DISTRICT JUDGE

¹ The failure to object to the Report and Recommendation not only waives the appellate rights in this matter, but also relieves the Court of any obligation to conduct a de novo review of the issue presented. See Thomas v. Arn, 474 U.S. 140, 148-153 (1985); Wells v. Shriners Hosp., 109 F.3d 198, 199-200 (4th Cir. 1997).