

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

ANDREW MILLER,

Plaintiff,

v.

CIVIL ACTION NO. 2:13-cv-15024

DAVID BALLARD., et al.,

Defendants.

MEMORANDUM OPINION AND ORDER

Pending before the Court are Plaintiff's Complaint, (ECF No. 2), and Application to Proceed without Prepayment of Fees and Costs (the "Application"), (ECF No. 1). By Standing Order filed in this case on June 20, 2013, this action was referred to United States Magistrate Judge Dwane L. Tinsley for total pretrial management and submission of proposed findings of fact and recommendations for disposition. (ECF No. 4.) On July 15, 2016, Magistrate Judge Tinsley filed proposed findings and recommendations for disposition (the "PF&R"), in which he recommends dismissing the Complaint pursuant to 28 U.S.C. § 1915A and denying the Application. (ECF No. 5 at 9.)

The Court is not required to review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of de novo review and the parties' right to appeal this Court's

order. 28 U.S.C. § 636(b)(1); *see also Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984).

Objections to the PF&R in this case were due by August 1, 2016. (*See* ECF No. 5 at 9–10.) To date, no objections have been filed.

Accordingly, the Court **ADOPTS** the PF&R, (ECF No. 5), **DISMISSES** the Complaint, (ECF No. 2), **DENIES** the Application, (ECF No. 1), **DISMISSES** this case, and **DIRECTS** the Clerk to remove this matter from the Court’s docket.

IT IS SO ORDERED.

The Court **DIRECTS** the Clerk to send a copy of this Opinion to counsel of record and any unrepresented party.

ENTER: September 23, 2016



THOMAS E. JOHNSTON
UNITED STATES DISTRICT JUDGE