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

CHARLESTON DIVISION

SHANNON PHILLIPS, et al.,

Plaintiffs,

v.

CIVIL ACTION NO. 2:13-cv-16975

WILBUR THAXTON, II, et al.,

Defendants.

MEMORANDUM OPINION AND ORDER

Before the Court is Plaintiffs' *pro se* Complaint [ECF 2] and amended Complaint [ECF 7] filed under 42 U.S.C. § 1983. By Standing Order entered April 8, 2013, and filed in this case on July 5, 2013, this action was referred to United States Magistrate Judge Dwane L. Tinsley for submission of proposed findings and a recommendation ("PF&R"). Referral of this action was later transferred to United States Magistrate Judge Cheryl A. Eifert. Magistrate Judge Eifert filed her first PF&R [ECF 6] on August 30, 2013, recommending that this Court dismiss with prejudice Plaintiffs' Complaint [ECF 2] against Defendant Wilbur Thaxton, II. Magistrate Judge Eifert also recommended that Plaintiffs' application to proceed without prepayment of fees and costs and further proceedings on the claims against Defendant Vriendt be held in abeyance pending amendment of the Complaint per the magistrate judge's August 29, 2013, Order (ECF 5).

On September 19, 2013, Plaintiffs filed their amended Complaint (ECF 7). Magistrate Judge Eifert filed her PF&R [ECF 9] on October 25, 2013, recommending that this Court deny Plaintiffs' application to proceed without payment of fees and costs and dismiss this case with prejudice.

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 Petitioner's 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). In addition, this Court need

not conduct a *de novo* review when a party "makes general and conclusory objections that do not

direct the Court to a specific error in the magistrate's proposed findings and recommendations."

Orpiano v. Johnson, 687 F.2d 44, 47 (4th Cir. 1982). Objections to the first PF&R (ECF 6) were

due on September 16, 2013. Objections to the second PF&R were due November 12, 2013. To

date, no objections have been filed for either PF&R.

Accordingly, the Court **ADOPTS** the first and second PF&Rs [ECF 6, 9], **DENIES**

Plaintiffs' application to proceed without payment of fees and costs [ECF 1], **DISMISSES WITH**

PREJUDICE Plaintiffs' Complaint [ECF 2] and amended Complaint [ECF 7], and **DIRECTS**

the Court remove this case from the Court's Docket.

IT IS SO ORDERED.

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any

unrepresented party.

ENTER:

April 18, 2014

THOMAS E. JOHNSTON

UNITED STATES DISTRICT JUDGE

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