

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

ERIC A. FOSTER,

Petitioner,

v.

Civil Action No. 2:16-cv-07333

JASON COLLINS, Superintendent,
Denmar Correctional Center and Jail,

Respondent.

MEMORANDUM OPINION AND ORDER

Pending before the court is the Proposed Findings and Recommendation ("PF&R") of the United States Magistrate Judge Dwane L. Tinsley, entered on March 13, 2024. ECF 47.

The Magistrate Judge recommends granting respondent Jason Collins' motion for summary judgment (ECF 23), denying petitioner Eric A. Foster's amended petition for writ of habeas corpus under 28 U.S.C. § 2254 (ECF 5), and dismissing this action from the court's docket. ECF 47 at 44.

The court need not 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 and recommendations to which no objection has been addressed. See Thomas v. Arn, 474 U.S. 140 (1985); see also 28 U.S.C. §

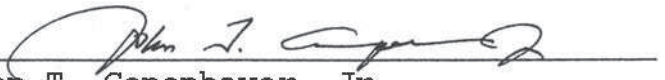
636(b) (1) ("A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.") (emphasis added). Failure to timely file objections constitutes a waiver of de novo review and the plaintiff's right to appeal the order of the court. See 28 U.S.C. § 636(b) (1); Snyder v. Ridenour, 889 F.2d 1363, 1366 (4th Cir. 1989). Objections in this case having been due on April 1, 2024, and none having been filed, this matter may be duly adjudicated.

Accordingly, it is ORDERED that:

1. The findings made in the magistrate judge's Proposed Findings and Recommendations be, and hereby are, ADOPTED by the court and incorporated herein;
2. The respondent's motion for summary judgment be, and it hereby is, GRANTED;
3. The petitioner's amended petition for writ of habeas corpus be, and it hereby is, DENIED;
4. This civil action be, and it hereby is, DISMISSED from the docket of this court.

The Clerk is directed to transmit copies of this memorandum opinion and order to the petitioner, all counsel of record, and the United States Magistrate Judge.

ENTER: April 3, 2024



John T. Copenhaver, Jr.
Senior United States District Judge