

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

BECKLEY DIVISION

NICHOLAS C. CLARKE,

Petitioner,

v.

CIVIL ACTION NO. 5:09-cv-00355

BUREAU OF PRISONS, et al.,

Respondents.

**MEMORANDUM OPINION AND ORDER
ADOPTING PROPOSED FINDINGS AND RECOMMENDATION**

The Court has reviewed Petitioner's *Writ of Habeas Corpus* (28 U.S.C. § 2241) (Document 1). This action was referred to the Honorable R. Clarke VanDervort, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636(b)(1)(B). (Document 2). On May 15, 2012, the Magistrate Judge submitted Proposed Findings and Recommendation ("PF&R") (Document 4), wherein it is recommended that this Court dismiss this action as moot, in light of the Petitioner's release from custody and the absence of collateral consequences.

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 PF&R in this case were due on June 1, 2012. To date, no party has filed any objections to the Magistrate Judge’s Proposed Findings and Recommendation. As noted in the PF&R, Petitioner appears to have been released from custody on July 15, 2011. Inasmuch as Petitioner did not provide the Clerk’s Office with a forwarding address, the PF&R sent to him on May 15, 2012, was returned as undeliverable. (Document 5).

Accordingly, the Court **ADOPTS** and incorporates herein the findings and recommendation of the Magistrate Judge as contained in the Proposed Findings and Recommendation, and **ORDERS** that Petitioner’s Section 2241 Petition (Document 1) be **DISMISSED**. The Court further **ORDERS** that this matter be removed from its docket.

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

ENTER: June 5, 2012



IRENE C. BERGER
UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF WEST VIRGINIA