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

BECKLEY DIVISION

DAVID LYNN HATFIELD,

Petitioner,

v. CIVIL ACTION NO. 5:09-cv-00568
(Criminal No. 5:02-cr-00219)

UNITED STATES OF AMERICA,

Respondent.

MEMORANDUM OPINION AND ORDER

Pending before the Court is Petitioner's Motion for Voluntary Dismissal [Docket 247]. By Standing Order entered on August 1, 2006, and filed in this case on May 20, 2009, this action was referred to United States Magistrate Judge R. Clarke VanDervort for submission of proposed findings and a recommendation (PF&R). Magistrate Judge VanDervort filed his PF&R [Docket 248] on June 8, 2009, recommending that this Court **GRANT** the motion and **DISMISS** the Petition, and remove matter from the Court's docket.

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 in the instant case were due on June 25, 2009. To date, no objections have been filed.

Accordingly the Court **ADOPTS** the recommendation contained in the PF&R [Docket 248], **GRANTS** Petitioner's Motion to Voluntarily Dismiss [Docket 247], **DISMISSES** the Petition [Docket 1], and **DIRECTS** the Clerk to remove the matter from the Court's docket. A separate Judgment Order will enter this day implementing the rulings contained herein.

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: July 8, 2009

THOMAS E. JOHNSTON
UNITED STATES DISTRICT JUDGE