

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

**BECKLEY DIVISION**

BILLY JAMES FLEMING, et al.,

Plaintiffs,

v.

CIVIL ACTION NO. 5:13-cv-21991

MICHAEL FRANCIS, et al.,

Defendant.

**MEMORANDUM OPINION AND ORDER**

The Court has reviewed the Plaintiffs' *Complaint* (Document 1) and *Application to Proceed Without Prepayment of Fees and Costs* (Document 2) filed in this matter.

By *Standing Order* (Document 4) entered on August 19, 2013, 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. On May 23, 2014, the Magistrate Judge submitted a *Proposed Findings and Recommendation* (Document 12) wherein it is recommended that this Court deny the Plaintiffs' *Application to Proceed Without Prepayment of Fees and Costs* (Document 2), dismiss the Plaintiffs' *Complaint* (Document 1), and remove this matter from the Court's docket. Objections to the Magistrate Judge's *Proposed Findings and Recommendation* were due by June 9, 2014.


No party has timely filed objections to the Magistrate Judge's *Proposed Findings and Recommendation*. 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 a party'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).

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 the Plaintiffs' *Application to Proceed Without Prepayment of Fees and Costs* (Document 2) be **DENIED**, the Plaintiffs' *Complaint* (Document 1) be **DISMISSED**, and this matter be **REMOVED** from the Court's docket.

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

ENTER: June 10, 2014

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