v.

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

## **BECKLEY DIVISION**

BILLY JAMES FLEMING,

Plaintiff,

CIVIL ACTION NO. 5:14-cv-16419

INMATE MARVN GARRETT, et al.

Defendants.

## MEMORANDUM OPINION AND ORDER

The Court has reviewed the Plaintiff's *Application to Proceed Without Prepayment of Fees and Costs* (Document 1) and the Plaintiff's *Complaint* (Document 2) filed in this matter on May 14, 2014.

By Standing Order (Document 4) entered on May 15, 2014, 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 5) wherein it is recommended that this Court deny the Plaintiff's Application to Proceed Without Prepayment of Fees and Costs (Document 1), dismiss the Plaintiff's Complaint (Document 2), 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.

Neither 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 Plaintiff's Application to Proceed Without Prepayment

of Fees and Costs (Document 1) be DENIED, the Plaintiff's Complaint (Document 2) 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

RENE C BERGER

UNITED STATES DISTRICT JUDGE

SOUTHERN DISTRICT OF WEST VIRGINIA

2