

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA**  
Norfolk Division

LAQUAN LEMELLE DAVIS,

Petitioner,

v.

COMMONWEALTH OF VIRGINIA,

Respondent.

Case No. 2:23-cv-562

**ORDER**

Petitioner Laquan Lemelle Davis seeks a writ of habeas corpus pursuant to 28 U.S.C. § 2241, challenging his sentence resulting from 2023 convictions in the Newport News Circuit Court. ECF No. 1. The petition argues that “the court[]” erroneously sentenced or “overcharged” the petitioner. *Id.* at 2.

The Honorable Lawrence R. Leonard, United States Magistrate Judge, directed the petitioner to file an amended petition because the petitioner appears to “seek[] relief under 28 U.S.C. § 2254.” ECF No. 14 at 1. In lieu of an amended petition, the petitioner filed a Motion to Voluntarily Dismiss. ECF No. 17. The motion states that the petitioner “realized that [his] attorney has an appeal in” and asks the Court to “withdraw [his] habeas corpus because of [the] appeal.” *Id.*

Upon receipt of the motion to voluntarily dismiss, Judge Leonard concluded that the petition should be denied and dismissed without prejudice. ECF No. 18 at 3–4. Judge Leonard advised the parties of their rights to object to his findings and recommendations and explained that failure to timely file an objection would result in a waiver of appeal from a judgment of this Court based on such findings and recommendations. *Id.* at 4 (citing *Thomas v. Arn*, 474 U.S. 140 (1985); *Carr v. Hutto*,

737 F.2d 433 (4th Cir. 1984); *United States v. Schronce*, 727 F. 2d 91 (4th Cir. 1984)). The petitioner's Motion to Voluntarily Dismiss indicates that he consents to the Report and Recommendation, *see* ECF No. 17, and the Commonwealth of Virginia is yet to enter an appearance. Thus, no objections have been filed and the time do so has expired.

In the absence of a specific written objection, this Court may adopt a Magistrate Judge's recommendations without conducting a *de novo* review, unless the recommendations are clearly erroneous or contrary to law. Fed. R. Civ. P. 72(b)(2); *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir.1982) (citations omitted); *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 316 (4th Cir. 2005). The Court has reviewed Judge Leonard's findings and recommendations and found no clear error. Accordingly, the Report and Recommendation (ECF No. 18) is **ADOPTED**.

The petitioner's Motion to Voluntarily Dismiss (ECF No. 17) is **GRANTED** and the Petition for Writ of Habeas Corpus (ECF No. 1) is **DENIED** and **DISMISSED WITHOUT PREJUDICE**. In light of the Court's ruling on the Petition for Writ of Habeas Corpus, the petitioner's Motion for Leave to Proceed *In Forma Pauperis* (ECF No. 2) is also **DENIED WITHOUT PREJUDICE**. The Clerk is **DIRECTED** to send a copy of this Order to Petitioner Laquan Lemelle Davis.

**IT IS SO ORDERED.**



/s/

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Jamar K. Walker  
United States District Judge

Norfolk, Virginia  
August 30, 2024