

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

JAMES S. ZIGMONT,

Plaintiff,

v.

//

CIVIL ACTION NO. 1:11CV134
(Judge Keeley)

ANEGLA JONES,

Defendant.

ORDER ADOPTING SECOND REPORT AND RECOMMENDATION

On August 1, 2011, pro se petitioner, James Zigmont ("Zigmont"), filed his "Petition To Release and Expunge the Record of Erroneous Tax Lien and Holds on Property" [complaint] in the Circuit Court of Harrison County, West Virginia. The United States, on behalf of its agency, the Internal Revenue Service, removed the action to this Court on August 18, 2011. On August 24, 2011 Zigmont moved to remand his case, for sanctions, and for an emergency hearing. Pursuant to 28 U.S.C. §§ 636(b)(1)(A)-(B) and L.R. Civ. P. 7.02(c), the Court referred this matter to United States Magistrate Judge John S. Kaul for initial screening and a report and recommendation. On September 8, 2011, Judge Kaul issued a Report and Recommendation ("first R&R") recommending that all of Mr. Zigmont's motions be denied. On September 27, 2011, the Court adopted the first R&R and denied Zigmont's motions (dkt. no. 18).

On September 28, 2011, the defendant, Angela Jones ("Jones"), filed a motion to dismiss Zigmont's complaint (dkt. no. 19). On November 2, 2011, Judge Kaul issued a second Report and

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Recommendation ("second R&R") recommending that the defendant's motion to dismiss be granted for failure to state a claim over which this Court may assert jurisdiction (dkt. no. 25).

The Report and Recommendation also specifically warned that Zigmont's failure to object to the recommendations would result in the waiver of his appellate rights on this issue. Nevertheless, Zigmont has not filed any objections.¹

Consequently, the Court **ADOPTS** the second R&R in its entirety, **GRANTS** the defendant's motion to dismiss, and **ORDERS** that this case be **DISMISSED WITH PREJUDICE** and stricken from docket.

It is so **ORDERED**.

The Court directs the Clerk of the Court to transmit copies of this order to counsel of record and to the pro se petitioner, certified mail, return receipt requested.

Dated: November 22, 2011

/s/ Irene M. Keeley
IRENE M. KEELEY
UNITED STATES DISTRICT JUDGE

¹ Zigmont's failure to object to the Report and Recommendation not only waives his appellate rights in this matter, but also relieves the Court of any obligation to conduct a de novo review of the issue presented. See Thomas v. Arn, 474 U.S. 140, 148-153 (1985); Wells v. Shriners Hosp., 109 F.3d 198, 199-200 (4th Cir. 1997).