

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

SARAH TIFFANY MARANDA TURNER,

Plaintiff,

v. // CIVIL ACTION NO. 1:12CV24
(Judge Keeley)

HCR MANORCARE,

Defendant.

ORDER ADOPTING REPORT AND RECOMMENDATION

On January 31, 2012, the pro se plaintiff, Sarah Tiffany Maranda Turner ("Turner"), filed a complaint pursuant to Title VII of the Civil Rights Act of 1964 ("CRA"), as amended, and the Americans with Disabilities Act of 1990 ("ADA"), as amended. On March 13, 2012, the defendant, HCR Manorcare ("HCR") filed a motion to dismiss, or in the alternative, for summary judgment. Turner responded on May 7, 2012, and HCR replied on May 7, 2012. The Court referred this matter to United States Magistrate Judge John S. Kaul for a report and recommendation in accordance with LR Civ.P. 72.01(d)(6).

On October 24, 2012, Magistrate Judge Kaul issued an Opinion and Report and Recommendation ("R&R"), in which he recommended that HCR's motion to dismiss be denied, but its motion for summary judgment be granted and the complaint dismissed with prejudice. (Dkt. No. 19). The magistrate judge determined Turner's complaint to be time-barred under the CRA and ADA because she did not file her complaint with this Court within 90 days of receiving her notice of right to sue from the Equal Employment Opportunity Commission. Judge Kaul further found that Turner had not

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demonstrated that she was entitled to equitable tolling of the statutory 90-day filing period.

The R&R also specifically warned Turner that her failure to object to the recommendation would result in the waiver of any appellate rights she might otherwise have on this issue. The parties did not file any objections.* Consequently, the Court **ADOPTS** the Report and Recommendation in its entirety (dkt. no. 19), **DENIES** the motion to dismiss (dkt. no. 9), **GRANTS** the motion for summary judgment (dkt. no. 9), and **ORDERS** that this case be **DISMISSED WITH PREJUDICE** and stricken from the Court's docket.

It is so **ORDERED**.

Pursuant to Fed. R. Civ. P. 58, the Court directs the Clerk of Court to enter a separate judgment order and to transmit copies of both orders to counsel of record and to the pro se petitioner, certified mail, return receipt requested.

Dated: November 28, 2012.

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

* The failure to object to the Report and Recommendation not only waives the 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).