

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

LUTHER PARKS,

Petitioner,

v.

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CIVIL ACTION NO. 1:12CV73  
(Judge Keeley)

TERRY O'BRIEN, Warden,

Respondent.

ORDER ADOPTING REPORT AND RECOMMENDATION

On April 30, 2012, the pro se petitioner, Luther Parks ("Parks"), filed a petition pursuant to 28 U.S.C. § 2241, challenging the use of prior state convictions for which he was not incarcerated to trigger a sentencing enhancement for his federal firearms offense (dkt. no. 1). The Court referred this matter to United States Magistrate Judge James E. Seibert for initial screening and a report and recommendation in accordance with LR PL P 2.

Magistrate Judge Seibert issued an Opinion and Report and Recommendation ("R&R") on July 2, 2012, in which he recommended that the petitioner's § 2241 petition be denied and dismissed with prejudice. (Dkt. No. 11). Pursuant to In re Jones, 226 F.3d 328 (4th Cir. 2000), Magistrate Judge Seibert determined that Parks is not entitled to file the instant § 2241 petition because he has not established that § 2255 is an inadequate or ineffective remedy for his claims.

The R&R also specifically warned Parks that his failure to

**ORDER ADOPTING REPORT AND RECOMMENDATION**

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object to the recommendation would result in the waiver of any appellate rights he might otherwise have on this issue. He did not file any objections.\* Accordingly, finding no clear error, the Court **ADOPTS** the Report and Recommendation in its entirety (dkt. no. 11), **DENIES** the § 2241 petition (dkt. no 1) 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: September 24, 2012.

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

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\* 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).