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

KEVIN EDWARD ARCHER,

Plaintiff,

v. **CIVIL ACTION NO.: 1:16cv172**

WARDEN SAAD,

Defendant.

ORDER ADOPTING MAGISTRATE JUDGE'S OPINION/REPORT AND RECOMMENDATION [DKT No. 6]

On August 12, 2016, the pro se plaintiff, Kevin Archer ("Archer"), an inmate at FCI Gilmer, mailed a complaint to the Circuit Court of Gilmer County, West Virginia, against the defendant, Warden Saad, seeking a preliminary injunction and restraining order pursuant to 28 U.S.C. § 2201 (dkt. no. 1). Because Plaintiff was incarcerated in FCI Gilmer, the Circuit Court of Gilmer County transferred the case to this court on August 17, 2016. The Court referred this matter to United State Magistrate Judge Michael J. Aloi for initial screening and a Report and Recommendation ("R&R") in accord with LR PL P 2.

On September 20, 2016, Magistrate Judge Aloi issued his R&R, in which he recommended that the Court dismiss Archer's claim as improperly brought under § 2201 (dkt. no. 6 at 1-2). Specifically, the R&R recommended that the Court dismiss Archer's claim without prejudice to his right to file his claim as a civil rights action. Id. at 2.

The R&R also specifically warned Archer that his failure to object to the recommendation would result in the waiver of any appellate rights he might otherwise have on this issue. Id. The parties did not file any objections.[1] Consequently, finding no clear error, the Court **ADOPTS** the R&R in its entirety (dkt. no. 6), **DENIES** the petition for writ of preliminary injunction and restraining order (dkt. no. 1), and **ORDERS** that this case be **DISMISSED WITHOUT PREJUDICE** and stricken from the Court's active 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 this order to counsel of record and to the pro se plaintiff, certified mail, return receipt requested.

Dated: June 1, 2017.

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

[1] 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, 148-53 (1985); Wells v. Shriners Hosp., 109 F.3d 198, 199-200 (4th Cir. 1997).