

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

ANTOINE HILL,

Petitioner,

v.

CIVIL NO. 1:16CV231
(Judge Keeley)

B. VON BLANCKENSEE,

Respondent.

ORDER ADOPTING REPORT AND RECOMMENDATION [DKT. NO. 25] AND
DENYING AND DISMISSING PETITION WITH PREJUDICE [DKT. NO. 1]

On December 7, 2016, the pro se petitioner, Robert Antoine Hill ("Hill"), filed the pending Petition for Habeas Corpus Pursuant to 28 U.S.C. § 2241 ("Petition") (Dkt. No. 1). As his sole ground for relief, Hill claims that the Bureau of Prisons ("BOP") improperly failed to allot him 48 days of good time credit. More particularly, he contends "education staff should have documented [he] was out of the literacy program for legal purposes," and thus capable of continuing to accrue full good time credit. Id. at 5, 8. Pursuant to 28 U.S.C. § 636(b)(1)(B) and the local rules, the Court referred Hill's Petition to the Honorable Robert W. Trumble, United States Magistrate Judge, for initial review.

On April 5, 2017, the respondent moved to dismiss the Petition or, in the alternative, for summary judgment, arguing it had appropriately reduced Hill's good time credit due to a disciplinary infraction and his voluntary withdrawal from the GED program (Dkt. No. 14-1 at 7). The respondent also contended that Hill was never

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exempt from participation in the GED program for any "legal purpose" (Dkt. No. 23).

In a Report and Recommendation ("R&R") entered on January 4, 2018, Magistrate Judge Trumble recommended that the Court grant the respondent's motion and dismiss Hill's Petition with prejudice (Dkt. No. 25). He reasoned that several circumstances supported the BOP's decision not to credit Hill with the full amount of good time credit. First, Hill was found guilty of a disciplinary infraction, which put him in bad standing with the GED program. In addition, Hill voluntarily withdrew from the GED program and remained so during the relevant four-year period. The R&R concluded that either of these circumstances adequately supported the BOP's reduction in Hill's good time credit. Id. at 10-11.

The R&R also informed the parties of their right to file "written objections identifying the portions of the recommendation to which objection is made and the basis of such objection." Id. at 11. It further warned that failure to do so may result in waiver of the right to appeal. Id. at 12. Although Hill received the R&R on January 8, 2018, he has not objected.

When reviewing a magistrate judge's R&R, the Court must review de novo only portions to which an objection has been timely made. 28 U.S.C. § 636(b)(1)(C). On the other hand, "the Court may adopt,

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without explanation, any of the magistrate judge's recommendations to which the prisoner does not object." Dellacirprete v. Gutierrez, 479 F. Supp. 2d. 600, 603-04 (N.D.W. Va. 2007)(citing Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 2005)). Courts will uphold those portions of the recommendation to which no objection has been made unless they are "clearly erroneous." See Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

Because no party has objected, the Court is under no obligation to conduct a de novo review. Dellacirprete, 479 F. Supp. at 603-04. Upon review of the R&R and the record for clear error, the Court:

- 1) **ADOPTS** the R&R (Dkt. No. 25);
- 2) **GRANTS** the respondent's Motion to Dismiss or, in the Alternative, Motion for Summary Judgment (Dkt. No. 14);
- 3) **DENIES** Hill's Motion for Rule 56 Summary Judgment (Dkt. No. 17); and
- 4) **DISMISSES** Hill's Petition **WITH PREJUDICE** (Dkt. No. 1).

It is so **ORDERED**.

The Court **DIRECTS** the Clerk to transmit copies of this Order to counsel of record and the pro se petitioner, certified mail and

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return receipt requested, to enter a separate judgment order, and to remove this case from the Court's active docket.

DATED: February 12, 2018.

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