

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

MICHAEL MURPHY,

Plaintiff,

v.

Civ. Action No. 1:20-CV-11  
(Kleeh)

JASON DAVIS,  
President of Enhanced Recovery  
Company, LLC,

Defendant.

**ORDER ADOPTING REPORT AND RECOMMENDATION [ECF NO. 46]**

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On January 13, 2020, the pro se Plaintiff, Michael Murphy ("Plaintiff"), filed a Complaint alleging violations of the Fair Debt Collections Practices Act ("FDCPA") against Defendant Jason Davis ("Defendant"). Compl., ECF No. 1. On May 26, 2020, Defendant filed a Motion to Dismiss for Lack of Personal Jurisdiction. [ECF No. 28]. Plaintiff filed a response in opposition to the Motion, and Defendant filed his reply brief. [ECF Nos. 42, 43].

Pursuant to 28 U.S.C. § 636 and the local rules, the Court referred the action to United States Magistrate Judge Michael J. Aloi for initial review. On January 5, 2021, the Magistrate Judge entered a Report and Recommendation ("R&R") [ECF No. 46], recommending that the Court grant the Motion to Dismiss [ECF No. 28] and that Plaintiff's Complaint be dismissed without prejudice.

The R&R also informed the parties regarding their right to

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file specific written objections to the magistrate judge's report and recommendation. Under Local Rule 12 of the Local Rules of Prisoner Litigation Procedure of the Northern District of West Virginia, "[a]ny party may object to a magistrate judge's recommended disposition by filing and serving written objections within fourteen (14) calendar days after being served with a copy of the magistrate judge's recommended disposition." LR PL P 12. Therefore, parties had fourteen (14) calendar days from the date of service of the R&R to file "specific written objections, identifying the portions of the Report and Recommendation to which objection is made, and the basis of such objection." The R&R further warned them that the "[f]ailure to file written objections . . . shall constitute a waiver of de novo review by the District Court and a waiver of appellate review by the Circuit Court of Appeals." The docket reflects that Plaintiff accepted service of the R&R on September 14, 2020. [ECF No. 47]. To date, no objections to the R&R have been filed.

When reviewing a magistrate judge's R&R, the Court must review de novo only the portions to which an objection has been timely made. 28 U.S.C. § 636(b)(1)(C). Otherwise, "the Court may adopt, without explanation, any of the magistrate judge's recommendations" to which there are no objections. Dellarciro v. Gutierrez, 479 F. Supp. 2d 600, 603-04 (N.D.W. Va. 2007) (citing

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Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983)). Courts will uphold portions of a 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. Accordingly, the Court reviewed the R&R for clear error. Upon careful review, and finding no clear error, the Court **ADOPTS** the R&R [ECF No. 46]. The Motion to Dismiss is **GRANTED** [ECF No. 28] and the Complaint is **DISMISSED WITHOUT PREJUDICE**. Plaintiff's "Motion to Stop Collection of Fees and to Reimburse Collected Fees" is **DENIED AS MOOT**. [ECF No. 48].

The Court **DIRECTS** the Clerk to enter judgment in favor of the Defendant as it relates to the remaining claims. The Court **ORDERS** that this action be **DISMISSED WITHOUT PREJUDICE** and **STRICKEN** from the docket.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to counsel of record via electronic means and to the pro se Plaintiff via certified mail, return receipt requested.

**DATED:** March 31, 2021

/s/ Thomas S. Kleeh  
THOMAS S. KLEEH  
UNITED STATES DISTRICT JUDGE