

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

MICHAEL HEATH THETFORD,
ANGEL CENTENO-MORALES, and
NELSON R. ZAPATA-VICENTE,

Plaintiffs,

v.

Civ. Action No. 1:20-CV-82
(Judge Kleeh)

ROGER WARE,
ALVIN JAMES WARRICK,
COLITHA PATRICE BUSH,
RONALD BENNETT SHEPHERD,
TANYA L. RICHARD,
PRIVATE SERVICES, and
UNITED STATES OF AMERICA,

Defendants.

ORDER ADOPTING REPORT AND RECOMMENDATION [ECF NO. 90]

On May 14, 2020, the pro se Plaintiff, Michael Heath Thetford ("Thetford"), filed *Motion for Writ of Habeas Corpus Ad Testificandum Production of Incarcerated Witnesses* ("Motion"), wherein Thetford requests this Court require certain incarcerated persons be brought before this Court for a hearing on the preliminary injunction. [ECF No. 20].

Pursuant to 28 U.S.C. § 636 and the local rules, the Court referred the action to United States Magistrate Judge Michael J. Aloï for initial review. On November 3, 2020, the Magistrate Judge entered a Report and Recommendation ("R&R"), recommending that the Court deny the Motion as moot. [ECF No. 90].

The R&R also informed the parties that they had fourteen (14)

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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." It 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 Petitioner accepted service of the R&R on August 10, 2020. [See ECF No. 34]. To date, no objections 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 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. 90]. The Motion is **DENIED as moot** and **DISMISSED WITHOUT PREJUDICE**.

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It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to all pro se parties via certified mail, return receipt requested, and to counsel of record via email.

DATED: February 8, 2021

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