

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

THOMAS E. WELCH,

Plaintiff,

v.

Civil Action No. 2:10cv82

**SISTERSVILLE GENERAL HOSPITAL,
PADEN CITY POLICE DEPARTMENT,
BROOKE COUNTY SHERIFF'S DEPARTMENT,
and WETZEL COUNTY PROSECUTING
ATTORNEY'S OFFICE,**

Defendants.

ORDER

On August 31, 2010, Magistrate Judge James E. Seibert filed his Report and Recommendation (Doc. 18), wherein the plaintiff was directed, in accordance with 28 U.S.C. § 636(b)(1), to file with the Clerk of Court any written objections within fourteen (14) days after being served with a copy of the Report and Recommendation ("R&R"). No objections to the Magistrate Judge's R&R have been filed. Accordingly, this Court will proceed with consideration of the R&R, reviewing for clear error.¹

Upon examination of the report from the Magistrate Judge, it appears to this Court that the issues raised by the plaintiff in his Complaint, filed pursuant to 42 U.S.C. § 1983, wherein the plaintiff alleges that the defendants manufactured false evidence used to convict him, were thoroughly considered by Magistrate Judge Seibert in his R&R. Moreover, this Court, upon a review for clear error of all matters now before it, is of the opinion that the R&R accurately reflects the law applicable to this case. Therefore, it is

¹The failure of a party to object to a Report and Recommendation waives the party's right to appeal from a judgment of this Court based thereon and, additionally, relieves the Court of any obligation to conduct a *de novo* review of the issues presented. See *Wells v. Shriners Hospital*, 109 F.3d 198, 199-200 (4th Cir. 1997); *Thomas v. Arn*, 474 U.S. 140, 148-153 (1985).

ORDERED that Magistrate Judge Seibert's Report and Recommendation (Doc. 18) be, and the same hereby is, **ADOPTED**. Accordingly, it is


ORDERED that the plaintiff's Complaint (Doc. 1) be, and the same hereby is, **DISMISSED** for failure to state a claim upon which relief may be granted, and **STRICKEN** from the docket of this Court. It is further

ORDERED that the Clerk shall enter judgment for the defendants. It is further

ORDERED that, if the plaintiff should desire to appeal the decision of this Court, written notice of appeal must be received by the Clerk of this Court within thirty (30) days from the date of the entry of the Judgment Order, pursuant to Rule 4 of the Federal Rules of Appellate Procedure. The \$5.00 filing fee for the notice of appeal and the \$450.00 docketing fee should also be submitted with the notice of appeal. In the alternative, at the time the notice of appeal is submitted, the plaintiff may, in accordance with the provisions of Rule 24(a) of the Federal Rules of Appellate Procedure, seek leave to proceed *in forma pauperis* from the United States Court of Appeals for the Fourth Circuit.

The Clerk of the Court is directed to transmit a copy of this Order to all parties appearing herein and to mail a copy to the *pro se* plaintiff.

DATED: October 19, 2010.


JOHN PRESTON BAILEY
UNITED STATES DISTRICT JUDGE