

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

LARRY ARNOLD YOUNG,

Petitioner,

v.

**CIVIL ACTION NO. 3:06-CV-110
(BAILEY)**

**DOMINIC A. GUTIERREZ, Sr.,
Warden, et al.,**

Respondent.

ORDER ADOPTING REPORT AND RECOMMENDATION

On this day, the above-styled matter came before the Court for consideration of the Report and Recommendations of United States Magistrate Judge John S. Kaull. By Standing Order entered on March 24, 2000, this action was referred to Magistrate Judge Kaull for submission of a proposed report and a recommendation ["R & R"]. Magistrate Judge Kaull filed his R & R's on May 23, 2007 [Doc. 21], May 25, 2007 [Doc. 22], and July 25, 2007 [Doc. 28]. In those filings, the magistrate judge recommended that this Court deny the petitioner's request for injunctive relief and deny and dismiss the petition.

Pursuant to 28 U.S.C. § 636 (b) (1) (c), this Court is required to make a *de novo* review of those portions of the magistrate judge's findings to which objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. ***Thomas v. Arn***, 474 U.S. 140, 150 (1985). In addition, failure to file timely objections constitutes a waiver of *de novo* review and the petitioner's right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); ***Snyder v. Ridenour***, 889 F.2d 1363, 1366 (4th Cir. 1989); ***United States v. Schronce***,

727 F.2d 91, 94 (4th Cir. 1984). Here, objections to Magistrate Judge Kaul's R & R's were due by June 7, 2007, June 11, 2007, and August 8, 2007, respectively, pursuant to 28 U.S.C. § 636(b)(1) and Fed.R.Civ.P. 72(b). The petitioner timely filed his Objections to each R & R [Docs. 24, 26, 29]. Accordingly, this Court will conduct a *de novo* review only as to the portions of the report and recommendation to which the petitioner objected. The remaining portions of the report and recommendation to which the petitioner did not object will be reviewed for clear error.

In his R & R, Magistrate Judge Kaul recommended that defendant Gutierrez be dismissed with prejudice. The magistrate judge also recommended the plaintiff's claims involving the confiscation of his property, including his brother's will and certain photographs, be dismissed with prejudice. Finally, the R & R directs that the plaintiff's amended claims be served upon defendants Workman and Kovscek and those defendants be required to file an answer.

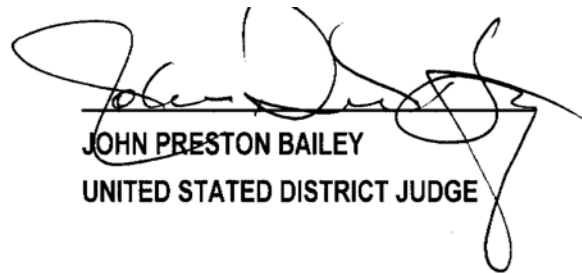
In his requests for injunctive relief, the plaintiff fails to show that he will suffer irreparable harm if such relief is not granted. In his Objections, rather than specify the type of injunctive relief requested, the petitioner continues to complain of various actions by the Bureau of Prisons staff who are not parties to this action. Additionally, the plaintiff has not, nor can he, establish a likelihood that he will succeed on the merits of his claims because his claims are not exhausted. Furthermore, the plaintiff fails to show that the public interest would best be served by the Court's granting injunctive relief.

Therefore, after reviewing the above, it is the opinion of the Court that the **Magistrate Judge's Report and Recommendations** [Docs. 21, 22, 28] should be, and are, hereby **ORDERED ADOPTED**. Accordingly, this Court hereby **DENIES** the petition

[Doc. 1] and **DISMISSES it without prejudice** based on the reasons set forth in the Magistrate Judge's Reports and Recommendations. Additionally, the Court **DENIES** the motions for injunctive relief [Docs. 9, 19, 27].

The Clerk is directed to mail true copies of this Order to all counsel of record and the *pro se* petitioner.

DATED: August 15, 2007.



JOHN PRESTON BAILEY
UNITED STATES DISTRICT JUDGE