

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

PAUL R. LOPEZ-HIDALGO,

Petitioner,

v.

**CIVIL ACTION NO. 3:12-CV-115
(JUDGE GROH)**

JANET NAPOLITANO

**Secretary, U.S. Dep't of Homeland Security,
JOHN MORTON, Director, U.S. Immigration
and Customs Enforcement, GARY MEAD,
Director, Enforcement and Removal
Operations, STACIA HYLTON, Director,
U.S. Marshall Service, MIKE LAWSON,
Warden, Potomac Highlands Regional
Jail, ERIC HOLDER, Attorney General of
the U.S.,**

Respondents.

ORDER ADOPTING OPINION/REPORT AND RECOMMENDATION

On this day, the above-styled matter came before the Court for consideration of the Report and Recommendation of United States Magistrate Judge James E. Seibert. Pursuant to this Court's Local Rules, this action was referred to Magistrate Judge Seibert for submission of a proposed report and a recommendation ("R & R"). Magistrate Judge Seibert filed his R & R on December 3, 2012 [Doc. 17]. In that filing, the magistrate judge recommended that this Court dismiss with prejudice the Petitioner's § 2241 petition and grant Respondents' Motion to Dismiss, or in the alternative Motion for Summary Judgment.

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). Objections to Magistrate Judge Seibert's R & R were due within fourteen (14) days of being served with a copy of the same, pursuant to 28 U.S.C. § 636(b)(1) and Fed.R.Civ.P. 72(b). The docket reflects that service was accepted by Petitioner's counsel and Respondents' counsel on December 3, 2012 via electronic service. Neither party filed objections to the R & R. Accordingly, this Court will review the report and recommendation for clear error.

Upon careful review of the report and recommendation, it is the opinion of this Court that the magistrate judge's **Report and Recommendation [Doc. 17]** should be, and is, hereby **ORDERED ADOPTED** for the reasons more fully stated in the magistrate judge's report. Accordingly, the Court hereby **DENIES** Petitioner's application under 28 U.S.C. § 2241 **[Doc. 1]**, and **DISMISSES** it **WITH PREJUDICE**. Accordingly, this matter is hereby **ORDERED STRICKEN** from the active docket of this Court. The Clerk is **DIRECTED** to enter judgment for Respondent.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to all counsel of record and to any *pro se* parties. Pursuant to Federal Rule of Civil Procedure 58, the Clerk is directed to enter judgment in this matter.

DATED: February 1, 2013

A handwritten signature in blue ink, appearing to read "Gina M. Groh", written over a horizontal line.

GINA M. GROH
UNITED STATES DISTRICT JUDGE