

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

SHAWNDALE D. SAUNDERS,

Petitioner,

v.

**CIVIL ACTION NO. 3:13-CV-5
(JUDGE GROH)**

UNITED STATES OF AMERICA,

Respondent.

**ORDER ADOPTING REPORT AND RECOMMENDATION ON
PETITIONER'S 28 U.S.C. § 2241 PETITION**

On this day, the above-styled matter came before the Court for consideration of the Report and Recommendation of United States Magistrate Judge John S. Kaull. Pursuant to this Court's Local Rules, 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 on April 30, 2013. In that filing, the magistrate judge recommended that this Court deny Petitioner's application under 28 U.S.C. § 2241 [Doc. 31].

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, 106 S. Ct. 466 (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 Kaul'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 Federal Rule of Civil Procedure 72(b). The docket reflects that service was accepted on May 3, 2013. [Doc. 32]. Neither party filed objections to the R & R. Accordingly, this Court will review the report and recommendation for clear error.

Petitioner filed his 28 U.S.C. § 2241 petition asserting that the BOP unlawfully denied him credit for time in state or federal court and has unlawfully computed and/or calculated his sentence in accordance with federal mandates. Petitioner seeks an order instructing the BOP to adjust his sentence credit to begin on April 18, 2008, the date federal authorities borrowed Petitioner from state authorities via a Writ of Habeas Corpus Ad Prosequendum. Specifically, Petitioner is seeking prior custody credit for the time between April 18, 2008 and January 30, 2009, when he was sentenced in federal court. However, Magistrate Judge Kaul found that this time was applied to his state sentence and applying the time to his federal sentence would result in double credit.

Upon careful review of the report and recommendation, it is the opinion of this Court that the magistrate judge's **Report and Recommendation [Doc. 31]** 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 mail a true copy to the *pro se* petitioner. Pursuant to Federal Rule of Civil Procedure 58, the Clerk is directed to enter judgment on this matter.

DATED: May 29, 2013



GINA M. GROH
UNITED STATES DISTRICT JUDGE