

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

**ESTEBAN RIVERA LEBRON,**

Petitioner,

v.

**CIVIL ACTION NO.: 3:16-CV-165  
(GROH)**

**JOE COAKLEY,**

Defendant.

**ORDER ADOPTING REPORT AND RECOMMENDATION**

On this day, the above-styled matter came before the Court for consideration of the Report and Recommendation (“R&R”) of United States Magistrate Judge Michael J. Aloï. Pursuant to this Court’s Local Rules, this action was referred to Magistrate Judge Aloï for submission of a proposed R&R. Magistrate Judge Aloï issued his R&R [ECF No. 24] on August 22, 2017. In the R&R, he recommends that the Defendant’s petition [ECF No. 1] be dismissed without prejudice. 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). Failure to file timely objections constitutes a waiver of *de novo* review and of a 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 Trumble's R&R were due within fourteen plus three days of the Petitioner being served with a copy of the same. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). Service was accepted at USP Hazelton on August 25, 2017. ECF No. 25. Therefore, after allowing additional time for transit in the mail, the Court finds that the deadline for the Plaintiff to submit objections to the R&R has passed. No objections have been filed. Accordingly, this Court will review the R&R for clear error.

Upon careful review of the R&R, it is the opinion of this Court that Magistrate Judge Aloï's Report and Recommendation [ECF No. 24] should be, and is hereby, **ORDERED ADOPTED** for the reasons more fully stated therein. The Respondent's Motion to Dismiss [ECF No. 20] is **GRANTED**.

Accordingly, the Petitioner's petition [ECF No. 1] is **DISMISSED WITHOUT PREJUDICE**. This matter is **ORDERED STRICKEN** from the Court's active docket.

The Clerk of Court is **DIRECTED** to mail a copy of this Order to the Petitioner by certified mail, return receipt requested, at his last known address as reflected on the docket sheet.

**DATED:** October 2, 2017

  
GINA M. GROH  
CHIEF UNITED STATES DISTRICT JUDGE