

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

**TYRONE R. WALLACE,**

Plaintiff,

v.

**CIVIL ACTION NO.: 3:18-CV-49  
(GROH)**

**OFFICER N. HENNING, CAPTAIN GILLIAN,  
CAPTAIN YOUNG, LT. MOODY, STS LT. ERVING,  
LT. GRUNDY, LT. TODDLE, OFFICER S. LEGG,  
OFFICER GAINER, MS. POSSE, MS. LANDERS,  
and UNITED STATES OF AMERICA,**

Defendants.

**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 Robert W. Trumble. Pursuant to the Local Rules, this civil action was referred to Judge Trumble for submission of a proposed R&R. Magistrate Judge Trumble issued an R&R [ECF No. 86] on June 14, 2021. In the R&R, Judge Trumble recommends that Defendant Lt. Moody aka Mooney be dismissed with 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 Plaintiff’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 Plaintiff being served with a copy of the same. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). Service was accepted by the *pro se* Plaintiff on June 21, 2021. ECF No. 87. 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 Trumble's Report and Recommendation [ECF No. 86] should be, and is hereby, **ORDERED ADOPTED** for the reasons more fully stated therein. Accordingly, Plaintiff's Motion for an extension of time [ECF No. 83] is **DENIED**,<sup>1</sup> and the Defendant's Motion to Dismiss is **GRANTED**. ECF No. 74. As to Defendant Lieutenant Moody only, this case is **DISMISSED WITH PREJUDICE**.

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

**DATED:** July 28, 2021

  
GINA M. GROH  
CHIEF UNITED STATES DISTRICT JUDGE

---

<sup>1</sup> The Court notes that this case is more than three years old. The Defendant's Motion to Dismiss was filed on November 3, 2020. ECF No. 74. The Magistrate Judge issued a Roseboro Notice six months later on May 7, 2021. ECF No. 79. Thereafter, the Plaintiff moved for an extension to file a response with no meaningful explanation. Although the Court generally provides extensions to *pro se* parties, the circumstances of this case do not warrant such an extension.