Greco v. Hendrix Doc. 19

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

THOMAS J. GRECO, JR.,

Petitioner,

v. CIVIL ACTION NO.: 3:18-CV-78

(GROH)

MR. DEWAYNE HENDRIX, Warden,

Respondent.

## ORDER ADOPTING REPORT AND RECOMMENDATION

Now before the Court is the Report and Recommendation ("R&R") of United States Magistrate Judge Robert W. Trumble. Pursuant to this Court's Local Rules, this action was referred to Magistrate Judge Trumble for submission of a proposed R&R. Magistrate Judge Trumble issued his R&R [ECF No. 16] on May 24, 2019. Therein, Magistrate Judge Trumble recommends that the Petitioner's § 2241 petition [ECF No. 1] be denied and dismissed without prejudice.

Pursuant to 28 U.S.C. § 636(b)(1)(C), this Court must conduct a *de novo* review of the magistrate judge's findings where 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 to which no objection is made. 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 service. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). The R&R was mailed to

the Petitioner on May 24, 2019. ECF No. 16. The R&R was returned as undeliverable

on June 3, 2019. ECF No. 18. Accordingly, the Petitioner did not file objections.

However, "all pro se litigants are responsible for promptly informing the Court of any

change in their address, monitoring the progress of their case, and prosecuting or

defending their actions diligently." LR PL P 6. Failure to notify the Clerk of Court of an

address change will result in dismissal of the prisoner's case. Id. Thus, 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. 16] should be, and is hereby,

**ORDERED ADOPTED** for the reasons more fully stated therein. Therefore, the

Petitioner's § 2241 Petition [ECF No. 1] is **DENIED** and **DISMISSED WITHOUT** 

**PREJUDICE.** The Respondent's Motion to Dismiss, or in the alternative, for Summary

Judgment [ECF No. 13] is **GRANTED**.

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:** June 3, 2019

CHIEF UNITED STATES DISTRICT JUDGE

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