

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT BLUEFIELD

MARILYN POWELL,

Plaintiff,

v.

CIVIL ACTION NO. 1:07-0452

FEDERAL BUREAU OF PRISONS,

Defendant.

MEMORANDUM OPINION AND ORDER

By Standing Order entered August 1, 2006, and filed in this case on July 20, 2007, this matter was referred to United States Magistrate Judge R. Clarke VanDervort. Pursuant to 28 U.S.C. § 636(b), the Standing Order directs Magistrate Judge VanDervort to submit proposed findings and recommendation concerning the disposition of this matter. Magistrate Judge VanDervort submitted his Proposed Findings and Recommendation ("PF & R") on September 4, 2009, recommending that this court dismiss this matter for failure to prosecute. (Doc. No. 7.)

In accordance with the provisions of 28 U.S.C. § 636(b), the parties were allotted ten days, plus three mailing days, in which to file any objections to Magistrate Judge VanDervort's PF & R. Under § 636(b), the failure of any party to file objections within the appropriate time frame constitutes a waiver of that party's right to a de novo review by this court. Snyder v. Ridenour, 889 F.2d 1363 (4th Cir. 1989); Thomas v. Arn, 474 U.S.

140 (1985). No party has submitted objections to the PF & R, and the time period for doing so has now elapsed.

Having reviewed the Proposed Findings and Recommendation filed by Magistrate Judge VanDervort, the court (1) **CONFIRMS** and **ACCEPTS** the factual and legal analysis set forth therein (Doc. No. 7), (2) **DISMISSES** this action without prejudice for failure to prosecute under Federal Rule of Civil Procedure 41, and (3) **DIRECTS** the Clerk to remove this matter from the court's active docket.

The Clerk is directed to forward a copy of this Memorandum Opinion and Order to plaintiff and to all counsel of record.

It is **SO ORDERED** this 12th day of November, 2009.

ENTER:



David A. Faber

Senior United States District Judge