Gentry v. MCM, et al Doc. 21

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

BLUEFIELD DIVISION

TISON JUSTICE GENTRY,

Plaintiff,

CIVIL ACTION NO. 1:12-cv-07695

MCM, et al.,

v.

Defendants.

MEMORANDUM OPINION AND ORDER

The Court has reviewed the Plaintiff's *Motion of Dismissal* (Document 17) filed on January 4, 2013, as well as the *Defendants' Response to Plaintiff's "Motion to Dismiss"* (Document 19) filed on January 15, 2013.

By Standing Order (Document 2) entered on November 16, 2012, this action was referred to the Honorable R. Clarke VanDervort, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636. On January 29, 2013, the Magistrate Judge submitted a *Proposed Findings and Recommendation* (Document 20) wherein it is recommend that this Court grant the Plaintiff's *Motion to Dismiss*, dismiss the Plaintiff's *Complaint* without prejudice, and remove this matter from the Court's docket. Objections to the Magistrate Judge's *Proposed Findings and Recommendation* were due by February 15, 2013.

No party has timely filed objections to the Magistrate Judge's Proposed Findings and

Recommendation. 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 the Petitioner's right to

appeal this Court's Order. 28 U.S.C. § 636(b)(1); see also Snyder v. Ridenour, 889 F.2d 1363,

1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984).

Accordingly, the Court ADOPTS and incorporates herein the findings and

recommendation of the Magistrate Judge as contained in the Proposed Findings and

Recommendation, and ORDERS that the Plaintiff's Motion to Dismiss (Document 17) is

GRANTED, the Plaintiff's *Complaint* (Document 1, pp. 8-11) is **DISMISSED WITHOUT**

PREJUDICE, and this matter is **REMOVED** from the Court's docket.

The Court **DIRECTS** the Clerk to send a certified copy of this Order to Magistrate Judge

VanDervort, counsel of record, and any unrepresented party.

ENTER:

February 19, 2013

RENE C BERGER

UNITED STATES DISTRICT JUDGE

SOUTHERN DISTRICT OF WEST VIRGINIA

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