

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

TERRENCE SHEPHERD,

Plaintiff,

v.

Civil Action No: 1:13-13757

REX BLOCKER, et al.,

Defendants.

MEMORANDUM OPINION AND ORDER

Pending before the court are the United States' motion to dismiss plaintiff's FTCA claim, (Doc. No. 25), and a motion to dismiss plaintiff's complaint submitted by defendants William Goode, Carl Hill, Karen F. Hogsten, and Hippilto Matos. (Doc. No. 35). By Standing Order, this matter was referred to United States Magistrate Judge R. Clarke VanDervort for submission of findings and recommendations regarding disposition, pursuant to 28 U.S.C. § 636(b)(1)(B). (Doc. No. 4). Magistrate Judge VanDervort submitted to the court his Proposed Findings and Recommendation on November 25, 2014. In the PF&R, Magistrate Judge VanDervort recommended that the district court grant the United States' motion to dismiss, grant the remaining defendants' motion to dismiss, and remove this matter from the court's docket. (Doc. No. 50).

In accordance with the provisions of 28 U.S.C. § 636(b), the parties were allotted fourteen days, plus three mailing days, in which to file any objections to the PF&R. The failure to file such objections constitutes a waiver of the right to a de novo review by this court. Snyder v. Ridenour, 889 F.2d 1363 (4th Cir. 1989).

Petitioner failed to file any objections to the Magistrate Judge's PF&R within the seventeen-day period. Having reviewed the PF&R filed by Magistrate Judge VanDervort, the court adopts the findings and recommendations contained therein.

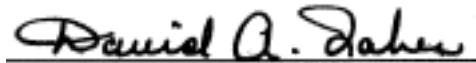
Additionally, the court has considered whether to grant a certificate of appealability. See 28 U.S.C. § 2253(c). A certificate will not be granted unless there is "a substantial showing of the denial of a constitutional right." Id. § 2253(c)(2). The standard is satisfied only upon a showing that reasonable jurists would find that any assessment of the constitutional claims by this court is debatable or wrong and that any dispositive procedural ruling is likewise debatable. Miller-El v. Cockrell, 537 U.S. 322, 336-38 (2003); Slack v. McDaniel, 529 U.S. 473, 484 (2000); Rose v. Lee, 252 F.3d 676, 683-84 (4th Cir. 2001). The court concludes that the governing standard is not satisfied in this instance. Accordingly the court **DENIES** a certificate of appealability.

The court hereby **ADOPTS** the factual and legal analysis contained within the PF&R, **GRANTS** the United States' motion to dismiss plaintiff's FTCA claim, (Doc. No. 25), **GRANTS** the motion to dismiss submitted by the remaining defendants, (Doc. No. 35), and **DISMISSES** plaintiff's complaint. (Doc. No. 2). The court **DIRECTS** the Clerk to remove this case from the court's docket.

The Clerk is further directed to forward a copy of this Memorandum Opinion and Order to petitioner, pro se.

It is SO ORDERED this 7th day of January, 2015.

ENTER:

A handwritten signature in cursive script, reading "David A. Faber", is written over a horizontal line.

David A. Faber

Senior United States District Judge