

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

MICHAEL J. KANODE, SR.,

Plaintiff,

v.

Civil Action No: 1:13-16360

STATE OF WEST VIRGINIA and
MERCER COUNTY,

Defendants.

MEMORANDUM OPINION AND ORDER

Pending before the court are plaintiff's complaint, (Doc. No. 1), and his application to proceed without prepayment of fees and costs. (Doc. No. 3). 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. 2). Magistrate Judge VanDervort submitted to the court his Proposed Findings and Recommendation on December 3, 2015, in which he recommended that the district court deny plaintiff's application to proceed without prepayment of fees and costs, dismiss plaintiff's complaint, and remove this matter from the court's docket. (Doc. No. 4 at 8-9).

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 Magistrate Judge

VanDervort's Findings and Recommendation. 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).

Plaintiff failed to file any objections to the Magistrate Judge's Findings and Recommendation within the seventeen-day period. Having reviewed the Findings and Recommendation filed by Magistrate Judge VanDervort, the court adopts the findings and recommendation contained therein.

The court hereby **ADOPTS** the factual and legal analysis contained within the PF&R, **DENIES** plaintiff's application to proceed without prepayment of fees and costs, (Doc. No. 3), **DISMISSES** plaintiff's complaint, (Doc. No. 1), and **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 counsel of record and plaintiff, pro se.

It is **SO ORDERED** this 30th day of December, 2015.

ENTER:



David A. Faber
Senior United States District Judge