

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

ROBERT L. AGUON,

Petitioner,

v.

Civil Action No: 1:17-01864

BARBARA RICKARD, Warden

Respondent.

MEMORANDUM OPINION AND ORDER

Pending before the court is petitioner's application for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. ECF No. 1. By Standing Order, the matter was referred to United States Magistrate Judge Omar J. Aboulhosn for submission of proposed findings and recommendations ("PF&R") for disposition pursuant to 28 U.S.C. § 636(b)(1)(B). On August 16, 2017, the magistrate judge submitted his PF&R, in which he recommended that the district court dismiss this matter without prejudice and remove the matter from the court's docket. ECF No. 16.

In accordance with the provisions of 28 U.S.C. § 636(b), petitioner was allotted fourteen days, plus three mailing days, in which to file any objections to Magistrate Judge Aboulhosn'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).

Petitioner failed to file any objections to the magistrate judge's Findings and Recommendation within the seventeen-day period. Having reviewed the Findings and Recommendation, the court adopts the findings and recommendation contained therein.

The court hereby **ADOPTS** the factual and legal analysis contained with the PF&R, (ECF No. 16), **DISMISSES** this matter, without prejudice, (ECF No. 1) and **DIRECTS** the Clerk to remove this case from the court's docket.

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." 28 U.S.C. § 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 Clerk is further directed to forward a copy of this Memorandum Opinion and Order to petitioner, pro se.

It is SO ORDERED this 11th day of October, 2017.

ENTER :

A handwritten signature in black ink that reads "David A. Faber". The signature is written in a cursive style and is positioned above a solid horizontal line.

David A. Faber

Senior United States District Judge