

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

ROBERT SHARP,

Plaintiff,

v.

CIVIL ACTION NO. 1:22-00057

WARDEN, FCI McDowell,

Defendant.

MEMORANDUM OPINION AND ORDER

By Standing Order, this action was referred to United States Magistrate Judge Omar J. Aboulhosn for submission of findings and recommendations regarding disposition pursuant to 28 U.S.C. § 636(b)(1)(B). Magistrate Judge Aboulhosn submitted to the court his Findings and Recommendation on August 18, 2022, in which he recommended that the district court dismiss plaintiff's petition under 28 U.S.C. § 2241 and remove this matter from the court's docket.

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 Aboulhosn's Findings and Recommendation. The failure of any party to file such objections constitutes a waiver of such party's right to a de novo review by this court. Snyder v. Ridenour, 889 F.2d 1363 (4th Cir. 1989).

The parties failed to file any objections to the Magistrate Judge's Findings and Recommendation within the

seventeen-day period. Instead, plaintiff filed a document seeking to withdraw his 2241 petition. See ECF No. 7. The court deems this filing to be a notice of dismissal pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i). That rule provides that a plaintiff may voluntarily dismiss an action without a court order by filing "a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment[.]" Id. Defendant has not filed an answer or otherwise pled.

Accordingly, although the aforementioned rule does not require a court order, this action is **DISMISSED** without prejudice and the Clerk is directed to remove this action from the docket of the court.

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

IT IS SO ORDERED this 28th day of November, 2022.

ENTER:



David A. Faber
Senior United States District Judge