

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

CHARLESTON DIVISION

J.D., et al.,

Petitioner,

v.

CIVIL ACTION NO. 2:09-cv-00139

KANAWHA COUNTY BOARD OF EDUCATION,

Respondent.

MEMORANDUM OPINION AND ORDER

Pending before the court is defendant Kanawha County Board of Education's Motion for Summary Judgment [Docket 17]. The Motion is **GRANTED**.

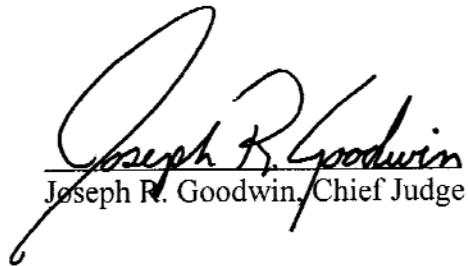
On February 17, 2009, plaintiff J.D., a disabled minor, by and with his Next Friend Mark Davis (the "plaintiffs"), filed a Petition to Appeal a State Agency Administrative Decision and Order (the "Petition"). Pursuant to 28 U.S.C. § 636, the matter was referred to Magistrate Judge Mary E. Stanley for proposed findings of fact and a recommendation for disposition ("PF&R"). The Magistrate Judge has submitted findings of fact and has recommended that the court grant the summary judgment motion. Objections to the PF&R were due on November 23, 2009. Neither party filed objections.

The failure to object to a magistrate judge's report may be deemed a waiver on appeal of the substance of the report, and the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation. *See Camby v. Davis*, 718 F.2d 198, 200 (4th Cir. 1983); *Campbell v. United States D. Ct. N.D. Cal.*, 501 F.2d 196, 206 (9th Cir. 1974). The court has reviewed the PF&R and finds no clear error on the face of the record. Therefore, the court

accepts and incorporates herein the findings and recommendation of the Magistrate Judge and orders judgment consistent with the findings and recommendations.

The court **GRANTS** the Motion for Summary Judgment [Docket 17], **DISMISSES** this action from the docket, and **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: December 4, 2009


Joseph R. Goodwin, Chief Judge