

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

STEPHANIE SMITH, et al.,

Plaintiff,

v.

CIVIL ACTION NO. 2:09-00948

THE REGION TWO DISTRICT DEPARTMENT
OF HEALTH AND HUMAN RESOURCES,
COMMISSIONER, JAMES KIMBLER, et al.,

Defendant.

MEMORANDUM OPINION AND ORDER

Pending before the court is are plaintiffs' Complaint/Motion for the Immediate Return of Children (Doc. No. 2), Application to Proceed Without Prepayment of Fees and Costs (Doc. No. 1), and Petition for Emergency Writ of Habeas Corpus (Doc. No. 7). By Standing Order, this matter was referred to United States Magistrate Judge Mary E. Stanley on August 24, 2009. (Doc. No. 5.) Pursuant to 28 U.S.C. § 636, the Standing Order directs Magistrate Judge Stanley to submit proposed findings and recommendation concerning the disposition of this matter. Magistrate Judge Stanley submitted her Proposed Findings and Recommendation ("PF & R") on September 10, 2009, recommending that this court dismiss the Complaint pursuant to 28 U.S.C. § 1915(e)(2)(B), and deny the Petition for Writ of Habeas Corpus and the Application to Proceed Without Prepayment of Fees and Costs. (Doc. No. 9 at 16.)

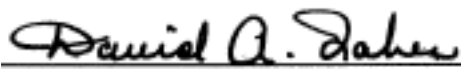
In accordance with the provisions of 28 U.S.C. § 636(b), the parties were allotted ten days, plus three mailing days, in which to file any objections to Magistrate Judge Stanley's PF & R. No party filed objections to the magistrate judge's proposed findings, and the failure to file objections within the appropriate time frame constitutes a waiver of the right to a de novo review by this court. Snyder v. Ridenour, 889 F.2d 1363 (4th Cir. 1989); Thomas v. Arn, 474 U.S. 140 (1985).

Having reviewed the Proposed Findings and Recommendation filed by Magistrate Judge Stanley, the court (1) **CONFIRMS AND ACCEPTS** the magistrate judge's findings (Doc. No. 9); (2) **DISMISSES** plaintiffs' Complaint (Doc. No. 2) **WITH PREJUDICE**; and (3) **DENIES** both the application (Doc. No. 1) and the petition (Doc. No. 7).

The Clerk is directed to remove this action from the court's active docket. The Clerk is further directed to forward a copy of this Memorandum Opinion and Order to all counsel of record and to any unrepresented party.

It is **SO ORDERED** this 10th day of December, 2009.

ENTER:



David A. Faber
Senior United States District Judge