

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

DARIUS QUINARD CARLISLE,

Petitioner,

v.

CIVIL ACTION NO. 2:09-01003

**JOHN T. SHARTLE, Warden,
FCI Elkton, Lisbon, OH,**

Respondent.

MEMORANDUM OPINION AND ORDER

Pending before the court is petitioner's action for habeas corpus relief, filed pursuant to 28 U.S.C. § 2241. By Standing Order, this matter was referred to United States Magistrate Judge Mary E. Stanley on September 16, 2009. Pursuant to 28 U.S.C. § 636(b), 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 November 25, 2009, recommending that this court dismiss the petition for lack of jurisdiction and as a successive motion under 28 U.S.C. § 2255. (Doc. No. 8 at 5.)

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. Neither 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. 8); (2) **DENIES** petitioner's motion for leave to file *in forma pauperis* (Doc. No. 2); (3) **DENIES** the motion for an order to show cause (Doc. No. 3); (4) **DENIES** petitioner's section 2241 petition (Doc. No. 1); and (5) **DISMISSES** this matter from the court's active docket.

The Clerk is directed to forward a copy of this Memorandum Opinion and Order to petitioner and to all counsel of record.

It is **SO ORDERED** this 15th day of December, 2009.

ENTER:



David A. Faber

Senior United States District Judge