

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

CHARLESTON DIVISION

TYHEIM SHAWNDALE LITTLE,

Petitioner,

v.

CIVIL ACTION NO. 2:12-cv-04582
(Criminal No. 2:95-cr-00198)

UNITED STATES OF AMERICA,

Respondent.

MEMORANDUM OPINION AND ORDER

Pending before the Court is Petitioner's Motion to Vacate, Set Aside or Correct Sentence by a Person in Federal Custody pursuant to 28 U.S.C. § 2255, (ECF 703), as amended by Petitioner's arguments in his Memorandum of Law in Support, (ECF 734) (together, the "2255 Motion"). By Standing Order entered on September 2, 2010, and filed in this case on August 23, 2012, this action was referred to Magistrate Judge Mary E. Stanley for submission of proposed findings and a recommendation for disposition ("PF&R"). (ECF 706.) On April 8, 2013, the Clerk transferred the referral of this matter from Magistrate Judge Stanley to Magistrate Judge Dwane L. Tinsley. (ECF 716.) Magistrate Judge Tinsley filed his PF&R on June 12, 2015, in which he recommends that this Court dismiss the 2255 Motion, with prejudice, as being untimely filed and an unauthorized second or successive motion. (ECF 747.)

The Court is not required to review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file timely

objections constitutes a waiver of de novo review and the Plaintiff's right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); see also *Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984). In addition, this Court need not conduct a de novo review when a party "makes general and conclusory objections that do not direct the Court to a specific error in the magistrate's proposed findings and recommendations." *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982).

Objections to the PF&R in this case were due by June 29, 2015. (See ECF 747 at 9–10.) To date, no objections have been filed.

Accordingly the Court **ADOPTS** the PF&R, (ECF 747), **DISMISSES WITH PREJUDICE** the 2255 Motion, (ECF 703 & 734), **DISMISSES** this action, and **DIRECTS** the Clerk to remove this case from the Court's docket.

IT IS SO ORDERED.

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: July 23, 2015



THOMAS E. JOHNSTON
UNITED STATES DISTRICT JUDGE