

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

CHARLESTON DIVISION

STEPHEN J. TAMBURO, III,

Plaintiff,

v.

CIVIL ACTION NO. 2:13-cv-01537

SCOTT HALL, et al.,

Defendants.

MEMORANDUM OPINION AND ORDER

Before the Court is Plaintiff Stephen J. Tamburo's *pro se* Complaint filed under 42 U.S.C. § 1983 [ECF 2]. By Standing Order entered September 2, 2010 and filed in this case on January 29, 2013, this action was referred to former United States Magistrate Judge Mary E. Stanley for submission of proposed findings and a recommendation ("PF&R"). Magistrate Judge Stanley filed her PF&R [ECF 7] on March 22, 2013, recommending that this Court dismiss as moot Plaintiff's claims for declaratory and injunctive relief in light of the fact that Plaintiff has been transferred to a different correctional facility. Magistrate Judge Stanley further recommended that the Court dismiss Plaintiff's claims for monetary relief insofar as those claims are asserted against the Defendants in their official capacities, but permit the case to remain referred to the Magistrate for the purpose of conducting additional proceedings concerning Plaintiff's claims against the Defendants in their individual capacities.

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 Petitioner'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 were due on April 8, 2013. To date, no objections have been filed.

Accordingly, the Court **ADOPTS** the PF&R [ECF 7], **DISMISSES AS MOOT** Plaintiff's claims for declaratory and injunctive relief, and **DISMISSES** Plaintiff's claims for monetary relief insofar as those claims are asserted against the Defendants in their official capacities. The Court **ORDERS** that this case remain referred to the current Magistrate Judge Dwane L. Tinsley for the purpose of conducting all remaining proceedings in accordance with the Court's September 2, 2010 Standing Order.

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: May 28, 2013



THOMAS E. JOHNSTON
UNITED STATES DISTRICT JUDGE