

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

CHARLESTON DIVISION

ANDREW MILLER,

Plaintiff,

v.

CIVIL ACTION NO. 2:13-cv-08573

DAVID BALLARD, et al.,

Defendants.

MEMORANDUM OPINION AND ORDER

Plaintiff Andrew Miller, pro se, an inmate at the Mount Olive Correctional Complex (“prison”) in Mount Olive, West Virginia, filed an Application to Proceed without Prepayment of Fees and Costs [ECF 1] and a Complaint [ECF 2]. In his Complaint, Plaintiff alleges that Defendants have acted unreasonably in handling his complaints about one of the prison’s rehabilitative programs.

By Standing Order entered on April 8, 2013, and filed in this case on April 22, 2013, this action was referred to United States Magistrate Judge Dwane L. Tinsley for submission of proposed findings and a recommendation (PF&R) pursuant to 28 U.S.C. § 636(b)(1)(B). Magistrate Judge Tinsley filed a PF&R on March 10, 2014 [ECF 6]. In that filing, the magistrate judge recommended that this Court dismiss Petitioner’s Complaint under 28 U.S.C. § 1915A for failing to state a facially plausible claim for relief. The magistrate judge also recommended that the Court deny Plaintiff’s application to proceed without prepayment of fees and costs.

The Court “shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” 28 U.S.C. § 636(b)(1)(C).


The Court is not, however, 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). In addition, this Court need not conduct a de novo review when a petitioner “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 March 27, 2014. To date no objections have been filed.

Accordingly, the Court **ADOPTS** the PF&R [ECF 6], **DISMISSES** the Complaint [ECF 2], **DENIES** Plaintiff’s application to proceed without prepayment of fees and costs [ECF 1], 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: April 7, 2014



THOMAS E. JOHNSTON
UNITED STATES DISTRICT JUDGE