

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

CHARLESTON DIVISION

WAYNE HAGAN,

Plaintiff,

v.

CIVIL ACTION NO. 2:14-cv-16692

OFFICER JERED TAYLOR, et al.,

Defendants.

MEMORANDUM OPINION AND ORDER

Before the Court is a motion to dismiss filed by Defendants David Ballard and Jim Rubenstein [ECF 18]. On May 20, 2014, this action was referred to United States Magistrate Dwane L. Tinsley for submission of proposed findings and a recommendation (“PF&R”). On July 21, 2015, Magistrate Judge Tinsley filed a PF&R [ECF 42] recommending that this Court grant the motion to dismiss filed by Defendants Ballard and Rubenstein with respect to Plaintiff’s claims for monetary damages against those defendants in their official capacities and deny the motion in all other respects.

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 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 were due on August 7, 2015. To date, no objections have been filed.

Accordingly, the Court **ADOPTS** the PF&R [ECF 42], **GRANTS** the motion to dismiss filed by Defendants Ballard and Rubenstein with respect to Plaintiff’s claims for monetary damages against those defendants in their official capacities [ECF 18], **DENIES** the motion to dismiss [ECF 18] in all other respects, and leaves this matter referred to Magistrate Judge Tinsley for additional proceedings concerning Plaintiff’s remaining claims.

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: August 14, 2015



THOMAS E. JOHNSTON
UNITED STATES DISTRICT JUDGE