

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

**CHARLESTON DIVISION**

LARRY WAYNE CANTRELL,

Plaintiff,

v.

CIVIL ACTION NO. 2:14-cv-17419

JIM RUBENSTEIN, et al.,

Defendants.

**MEMORANDUM OPINION AND ORDER**

On June 3, 2014, Plaintiff Larry Wayne Cantrell filed a Complaint pursuant to 42 U.S.C. § 1983. (ECF 2.) On the same day, this action was referred to United States Magistrate Dwane L. Tinsley for submission of proposed findings and a recommendation (“PF&R”). On February 9, 2015, a motion to dismiss was filed in this matter, purportedly by Plaintiff. [ECF 45.] Magistrate Judge Tinsley filed a PF&R on July 8, 2015, noting that it appears that a non-party to this case improperly filed the motion to dismiss and recommending that this Court deny the motion with prejudice. [ECF 60.]

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. *See Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of *de novo* review and the Defendant’s right to appeal this Court’s Order. *See* 28 U.S.C. § 636(b)(1); *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 July 27, 2015. To date, no objections have been filed.

Accordingly, the Court **ADOPTS** the PF&R [ECF 60], **DENIES WITH PREJUDICE** the motion to dismiss [ECF 45], and permits this matter to proceed.

**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



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THOMAS E. JOHNSTON  
UNITED STATES DISTRICT JUDGE