

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

CHARLESTON DIVISION

JAMES BUFORD ROBERTSON,

Plaintiff,

v.

CIVIL ACTION NO. 2:15-cv-01971

WEST VIRGINIA DEPARTMENT OF
HEALTH AND HUMAN RESOURCES,
DEPARTMENT OF BEHAVIORAL HEALTH, et al.,

Defendants.

MEMORANDUM OPINION AND ORDER

Pending before the Court is Plaintiff's letter-form motion, which the Clerk interpreted as a motion to withdraw the Complaint (the "Motion to Withdraw"). (ECF No. 3.) By Standing Order entered on May 7, 2014 and filed in this case on February 19, 2015, this action was referred to United States Magistrate Judge Dwane L. Tinsley for submission of proposed findings and a recommendation for disposition. (ECF No. 2.) On October 27, 2015, Magistrate Judge Tinsley filed proposed findings and recommendations (the "PF&R"), in which he construes the Motion to Withdraw "as a motion for an order of voluntary dismissal under Fed. R. Civ. P. 41(a)(2)" and recommends that the Court grant the Motion to Withdraw and dismiss this civil action without prejudice. (ECF No. 6 at 1-3.)

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).

Objections to the PF&R were due by November 13, 2015. (*See* ECF No. 6 at 3.) To date, no party has filed objections to the PF&R.

Accordingly the Court **ADOPTS** the PF&R, (ECF No. 6), and construes the Motion to Withdraw as a motion for the voluntary dismissal of this action pursuant to Federal Rule of Civil Procedure 41(a)(2). The Court further **GRANTS** the Motion to Withdraw, (ECF No. 3), **DISMISSES** this case **WITHOUT PREJUDICE**, and **DIRECTS** the Clerk to remove this action 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: November 18, 2015



THOMAS E. JOHNSTON
UNITED STATES DISTRICT JUDGE