

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

CHARLESTON DIVISION

DAVID DEAN BUZZARD, JR.

Plaintiff,

v.

CIVIL ACTION NO. 2:15-cv-06376

DAVID BALLARD, et al.,

Defendants.

MEMORANDUM OPINION AND ORDER

Pending before the Court is Plaintiff's Motion to Enjoin Defendants from Obstructing the Plaintiff's Right to Access the Court, which has been construed as a motion for preliminary injunctive relief. (ECF No. 10.) On May 18, 2015, this action was referred to United States Magistrate Judge Dwane L. Tinsley for submission of proposed findings and a recommendation ("PF&R"). (ECF No. 5.) Magistrate Judge Tinsley filed a PF&R, (ECF No. 18), in response to the instant motion on February 2, 2016, recommending that this Court deny Plaintiff's motion and all requests for declaratory and injunctive relief contained in Plaintiff's amended complaint, (ECF No. 17), as moot. The PF&R further recommends that this Court dismiss all official capacity claims against the defendants named in the amended complaint insofar as those claims seek declaratory and injunctive relief only.

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 a party'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 in this case were due on February 19, 2016. To date, no objections have been filed.

Accordingly, the Court **ADOPTS** the PF&R, (ECF No. 18), and **DENIES AS MOOT** Plaintiff's motion for preliminary injunctive relief, (ECF No. 10), and all other claims for declaratory and injunctive relief asserted in the amended complaint, (ECF No. 17). Further, the Court **DISMISSES** all official capacity claims against the defendants named in the amended complaint.¹ The Court retains jurisdiction over the personal capacity claims for money damages asserted in Plaintiff's amended complaint.

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: March 3, 2016



THOMAS E. JOHNSTON
UNITED STATES DISTRICT JUDGE

¹ The Court notes that since the PF&R was entered, the plaintiff has moved for leave to file a second amended complaint. (ECF No. 19.) That motion is currently pending before Magistrate Judge Tinsley. It does not contest the disposition recommended in the PF&R, which is addressed to the claims asserted in Plaintiff's first amended complaint only, and accordingly has no effect on this Court's decision to adopt that PF&R.