

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

CHARLESTON DIVISION

JOHN STEPHEN LINKENAUGER, II,

Plaintiff,

v.

CIVIL ACTION NO. 2:20-cv-00068

WVDCR, *also known as WVRJA*, and
TRINITY FOOD SERVICES,

Defendants.

MEMORANDUM OPINION AND ORDER

On January 28, 2020, the Plaintiff, proceeding *pro se*, filed his *Application to Proceed Without Prepayment of Fees and Costs* (Document 1) and his *Complaint* (Document 2). By *Administrative Order* (Document 3) entered on January 29, 2020, the matter was referred to the Honorable Omar J. Aboulhosn, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636.

On October 26, 2021, the Magistrate Judge submitted a *Proposed Findings and Recommendation* (Document 5) wherein it is recommended that this Court dismiss the Plaintiff's *Complaint* without prejudice, deny as moot the Plaintiff's *Application to Proceed Without Prepayment of Fees and Costs*, and remove this matter from the Court's docket. Objections to


the Magistrate Judge's *Proposed Findings and Recommendation* were due by November 12, 2021¹.

Neither party has timely filed objections to the Magistrate Judge's *Proposed Findings and Recommendation*. 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).

Accordingly, the Court **ADOPTS** and incorporates herein the findings and recommendation of the Magistrate Judge as contained in the *Proposed Findings and Recommendation*, and **ORDERS** that the Plaintiff's *Complaint* (Document 2) be **DISMISSED WITHOUT PREJUDICE**, the Plaintiff's *Application to Proceed Without Prepayment of Fees and Costs* (Document 1) be **DENIED AS MOOT**, and this matter be **REMOVED** from the Court's docket.

The Court **DIRECTS** the Clerk to send a certified copy of this Order to Magistrate Judge Aboulhosn, counsel of record, and any unrepresented party.

ENTER: November 19, 2021


IRENE C. BERGER
UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF WEST VIRGINIA

¹The docket reflects that the *Proposed Findings and Recommendation* mailed to the Plaintiff was returned as undeliverable on November 1, 2021.