

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

CHARLESTON DIVISION

CODY TREVOR HARRIS,

Plaintiff,

v.

CIVIL ACTION NO. 2:20-cv-00533

CITY OF RAVENSWOOD and
RAVENSWOOD CITY POLICE DEPARTMENT,

Defendants.

MEMORANDUM OPINION AND ORDER

On August 7, 2020, the Plaintiff, proceeding *pro se*, filed his *Complaint* (Document 1) in this matter. By *Administrative Order* (Document 3) entered on August 11, 2020, this action 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 May 12, 2021, the *Defendants' Motion to Dismiss* (Document 16) was filed. In connection with the same, Magistrate Judge Aboulhosn entered an *Order* (Document 18) advising the Plaintiff that, if he chose to respond to the *Defendants' Motion to Dismiss*, that he must do so by June 14, 2021. The Plaintiff was further advised that failure to respond may result in a recommendation of denial of the relief sought in the *Complaint* and of dismissal of this action. The Plaintiff has failed to respond.

On August 16, 2021, the *Defendants' Motion to Dismiss for Failure to Respond* (Document 19) was filed. On August 17, 2021, Magistrate Judge Aboulhosn entered an *Order* (Document 21) directing the Plaintiff to show cause in writing by September 17, 2021, as to why this civil action should not be dismissed for failure to prosecute. The Plaintiff has failed to respond.

On October 4, 2021, Magistrate Judge Aboulhosn submitted a *Proposed Findings and Recommendation* (Document 22) wherein it is recommended that the *Defendants' Motion to Dismiss for Failure to Respond* (Document 19) be granted to the extent the Defendants seek dismissal of the action with prejudice and be denied to the extent the Defendants request to be awarded their costs, expenses, and attorney's fees; that the *Defendants' Motion to Dismiss* (Document 16) be denied as moot; and that this matter be removed from the Court's docket.

Objections to the Magistrate Judge's *Proposed Findings and Recommendation* were due by October 21, 2021, and none were filed by either party.

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:

- 1) The *Defendants' Motion to Dismiss for Failure to Respond* (Document 19) is **GRANTED in part and DENIED in part**. The motion is granted to the extent the

Defendants seek dismissal of the action with prejudice and is denied to the extent the Defendants request to be awarded their costs, expenses and attorney's fees;

- 2) The *Defendants' Motion to Dismiss* (Document 16) is **DENIED AS MOOT**;
- 3) This matter is **DISMISSED with prejudice**; and
- 4) This matter is **REMOVED** form 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 2, 2021



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