

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

CHARLESTON DIVISION

MICHAEL THOMPSON,

Plaintiff,

v.

CIVIL ACTION NO. 2:21-cv-00149

WEXFORD HEALTH SOURCES, et al.,

Defendants.

MEMORANDUM OPINION AND ORDER

On March 4, 2021, the Plaintiff, proceeding *pro se*, filed his *Complaint* (Document 2) in this matter. Addendums to the *Complaint* were filed on May 7, 2021, and June 21, 2021 (Documents 10 and 11). By *Administrative Order* (Document 4) entered on March 5, 2021, the 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 February 29, 2024, the Magistrate Judge submitted a *Proposed Findings and Recommendation* (Document 19) wherein it is recommended that this Court dismiss the Plaintiff's *Complaint* without prejudice and remove this matter from the Court's docket. Objections to the Magistrate Judge's *Proposed Findings and Recommendation* were due by March 18, 2024. No objections were filed. However, the Plaintiff did file a letter-form response (Document 20) on March 20, 2024, wherein he advised that he does not object to the dismissal of his case.

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 (Documents 2, 10 and 11) be **DISMISSED without prejudice** and that this matter be **REMOVED** from the Court's docket.

Lastly, the Court has considered the Plaintiff's request for the return of his \$71.86 partial filing fee as set forth in his letter-form response (Document 20). Therein, the Plaintiff advised that he was unaware that the Court had received the partial filing fee on May 5, 2022, which he thought had been sent in 2021, that he no longer desired to pursue his case as of October 11, 2021 (being the deadline previously established by the Magistrate Judge), and that this was the reason the Court had not heard from him. Given the Plaintiff's representations and given that his partial filing fee did not appear on the docket until May 5, 2022, the Court **ORDERS** that the Plaintiff's request for the return of the \$71.86 be **GRANTED**. The Court **DIRECTS** the Clerk to return the Plaintiff's **\$71.86** partial filing fee received on May 5, 2022, and further **DIRECTS** that no additional payments of the previously order \$350.00¹ filing fee be collected in this matter.

¹The \$350.00 filing fee was more fully set forth in the *Order Granting Application to Proceed Without Prepayment of Fees* (Document 8) filed on April 16, 2021.

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: March 26, 2024



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