

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

CHARLESTON DIVISION

KENNETH SAVIO,

Plaintiff,

v.

CIVIL ACTION NO. 2:21-cv-00480

SHANNON WILSON, et al.,

Defendants.

MEMORANDUM OPINION AND ORDER

The Plaintiff's Complaint (Document 1-1) was filed in the Circuit Court of Wood County, West Virginia, on July 20, 2021. The matter was removed to the United States District Court for the Southern District of West Virginia on August 27, 2021.

Pending in the matter are *Defendants Parkersburg Acquisition LLC d/b/a Stonerise Parkersburg and Shannon Wilson's Rule 12(b)(6) Motion to Dismiss Plaintiff's Complaint, or, in the Alternative, Motion for Summary Judgment* (Document 1-4 at 31-36) and *Defendant Aetna Inc.'s Motion to Dismiss Plaintiff's Complaint* (Document 4).

By *Administrative Order* (Document 2) entered on August 31, 2021, 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 19, 2021, the Magistrate Judge submitted a *Proposed Findings and Recommendation* (Document 20) wherein it is recommended that this Court grant *Defendants Parkersburg Acquisition LLC d/b/a Stonerise Parkersburg and Shannon Wilson's Rule 12(b)(6) Motion to Dismiss Plaintiff's Complaint, or, in the Alternative, Motion for Summary Judgment* (Document 1-4 at 31-36) and *Defendant Aetna Inc.'s Motion to Dismiss Plaintiff's*

Complaint (Document 4). Objections to the Magistrate Judge's *Proposed Findings and Recommendation* were due by November 5, 2021.

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 *Defendants Parkersburg Acquisition LLC d/b/a Stonerise Parkersburg and Shannon Wilson's Rule 12(b)(6) Motion to Dismiss Plaintiff's Complaint, or, in the Alternative, Motion for Summary Judgment* (Document 1-4 at 31-36) be **GRANTED** and *Defendant Aetna Inc.'s Motion to Dismiss Plaintiff's Complaint* (Document 4) be **GRANTED**.

The Court further **ORDERS** that the Plaintiff's Complaint (Document 1-1) be **DISMISSED** and that 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 17, 2021



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