

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

ERIC MEADOWS,

Plaintiff,

v.

Civil Action No. 2:23-cv-00399

SHELBY SEARLS,

Defendant.

ORDER

Pending before the court is the Proposed Findings and Recommendation ("PF&R") of United States Magistrate Judge Cheryl A. Eifert, entered on September 26, 2023. ECF No. 14.

The Magistrate Judge recommends that respondent's motion to dismiss, ECF No. 10, be granted; Meadow's petition, ECF No. 2, be denied for failure to exhaust state court remedies; and this matter be dismissed, without prejudice, and removed from the docket of the court.

In reviewing a PF&R, the court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). Upon the filing of an objection to a PF&R, the court "shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." Id. Failure to object to a PF&R constitutes waiver of

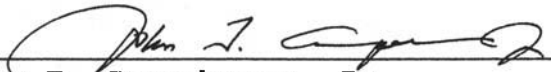
de novo review, in which case the court reviews the PF&R for clear error. See Fed. R. Civ. P. 73 Advisory Committee notes.

There being no objections to the PF&R, it is ORDERED that the PF&R be, and hereby is, adopted by the court and incorporated herein. It is, therefore, ORDERED as follows:

1. The petition is DENIED for failure to exhaust state court remedies;
2. The respondent's motion to dismiss is GRANTED;
3. This matter is DISMISSED, without prejudice, and REMOVED from the court's docket.

The Clerk is directed to transmit copies of this order to any unrepresented parties, all counsel of record, and the United States Magistrate Judge.

ENTER: October 17, 2023



John T. Copenhaver, Jr.
Senior United States District Judge