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

BECKLEY DIVISION

WAYNE SMITH, et al.,

Plaintiff,

v. CIVIL ACTION NO. 5:06-cv-00065

DIRECTOR JOHN DOES, et al.,

Defendants.

MEMORANDUM OPINION

Pending before the Court are Plaintiffs' Application to Proceed *in Forma Pauperis* [Docket 3] and Plaintiffs' Complaint [Dockets 1– 2]. By Standing Order entered on July 2, 2004, and filed in this case on January 30, 2006, this action was referred to United States Magistrate Judge R. Clarke VanDervort for submission of proposed findings and a recommendation (PF&R). Magistrate Judge VanDervort filed his PF&R [Docket 10] on January 16, 2009, recommending that this Court **DENY** Plaintiffs' Application to Proceed *in Forma Pauperis*, **DISMISS** Plaintiffs' Complaint, and remove this matter from the Court's docket.

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). In addition, failure to file timely objections constitutes a waiver of *de novo* review and Plaintiffs' right to appeal this Court's Order. *Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984). Here, objections to Magistrate Judge VanDervort's PF&R were

due by February 2, 2009, pursuant to 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b). To date, no objections have been filed.

Accordingly, the Court **ADOPTS** the PF&R [Docket 10] in its entirety, **DENIES** Plaintiffs' Application to Proceed *in Forma Pauperis* [Docket 3], and **DISMISSES** Plaintiffs' Complaint [Dockets 1– 2]. A separate Judgment Order will enter this day implementing the rulings contained herein.

IT IS SO ORDERED.

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

ENTER: February 6, 2009

THOMAS E. JOHNSTON
UNITED STATES DISTRICT JUDGE