

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

BECKLEY DIVISION

MARLON HARDY,

Petitioner,

v.

CIVIL ACTION NO. 5:08-cv-00808

T. R. CRAIG,

Respondent.

ORDER

The Court has reviewed Petitioner's Petition for Writ of Habeas Corpus [Docket 1], filed June 4, 2008. By Order [Docket 2] entered on June 4, 2008, this action was referred to the Honorable R. Clarke VanDervort, 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(b)(1)(B). On June 17, 2011, the Magistrate Judge submitted Proposed Findings and Recommendation ("PF&R") [Docket 7] wherein it is recommended that this Court dismiss Petitioner's Petition 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). Failure to file timely objections constitutes a waiver of de novo review and the Petitioner'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). In addition, this Court need not conduct a de novo review when a party "makes general and conclusory objections that do not direct the Court

to a specific error in the magistrate's proposed findings and recommendations.” *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir.1982).

The Court entered an Order on July 6, 2011, declining to adopt the PF&R at that time and notifying Petitioner that the Court intended to recharacterize his Petition as a Motion to Vacate, Set Aside, or Correct Sentence pursuant to 28 U.S.C. § 2255, and affording him opportunity to object or otherwise respond to such recharacterization. Petitioner was directed to respond by July 21, 2011. Inasmuch as he has neither objected to the PF&R nor responded to the Court’s Order, 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 Petitioner’s Petition for Writ of Habeas Corpus [Docket 1] be **DISMISSED**. The Court further **ORDERS** that this matter be removed from its docket.

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

ENTER: August 1, 2011


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