

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

BECKLEY DIVISION

TIMOTHY B. HARDING,

Plaintiff,

v.

CIVIL ACTION NO. 5:08-cv-01183

FEDERAL BUREAU OF PRISONS, et al.,

Defendants.

**MEMORANDUM OPINION AND ORDER
ADOPTING PROPOSED FINDINGS AND RECOMMENDATION**

The Court has reviewed the Plaintiff's *Motion Seeking Enlargement of Time in Which to Secure Medical Documents and Retain Legal Counsel For the Filing of Legal Action Against the Above Named Parties* (Document No. 1), in which he sought sixty days to secure medical records and legal representation so that he could assert a claim in this Court for work-related injuries sustained at FCI Beckley on September 13, 2006.¹

By *Standing Order* (Document No. 2) entered on October 15, 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. On October 21, 2011, the Magistrate Judge submitted his *Proposed Findings and Recommendation* ("PF&R") (Document No. 4) wherein it is recommended that this Court dismiss Plaintiff's Complaint for his failure to prosecute this matter and remove this case from the Court's docket.

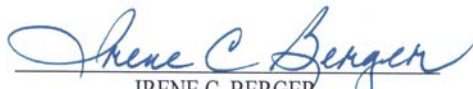
¹ This motion was described on ECF as a Complaint.

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 his PF&R, Magistrate Judge VanDervort advised the parties that any objections to the PF&R was due within seventeen days of the filing of the proposed findings and recommendation. Consequently, any objections to the PF&R was due on November 7, 2011. The Court's Electronic Case Management System indicates that the PF&R has been sent to Plaintiff at both the FCI Beckley and FMC Lexington facilities.² To date, no party has filed any objections to the Magistrate Judge's *Proposed Findings and Recommendation*.

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 Plaintiff's Complaint 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 VanDervort, counsel of record, and any unrepresented party.

ENTER: November 14, 2011


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

² At the time this matter was initiated, Plaintiff was housed at FCI Beckley. However, according to the Bureau of Prisons' Inmate Locator, Plaintiff is currently incarcerated at Lexington FMC.