Desorbo v. Berkebile Doc. 8

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

## **BECKLEY DIVISION**

DONALD DESORBO,

Petitioner,

CIVIL ACTION NO. 5:10-cv-00942

DAVID A. BERKEBILE,

v.

Respondent.

## MEMORANDUM OPINION AND ORDER ADOPTING PROPOSED FINDINGS AND RECOMMENDATION

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 August 17, 2011, the Magistrate Judge submitted *Proposed Findings and Recommendation* ("PF&R") (Docket 6) wherein it is recommended that this Court deny Petitioner's *Motion for Default Judgment* (Docket 5) and dismiss Petitioner's *Application under 28 U.S.C.* § 2241 for Writ of Habeas Corpus (Docket 1).

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). To date, no objections have been filed.

Accordingly, the Court ORDERS that the recommendation of the Magistrate Judge as

contained in the Proposed Findings and Recommendation (Docket 6) be ADOPTED, that

Petitioner's *Motion for Default Judgment* (Docket 5) be **DENIED**, and that Petitioner's *Application* 

under 28 U.S.C. § 2241 for Writ of Habeas Corpus (Docket 1) be DISMISSED and STRICKEN

from the Court's docket.

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

unrepresented party.

ENTER:

September 7, 2011

UNITED STATES DISTRICT JUDGE

SOUTHERN DISTRICT OF WEST VIRGINIA