

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

BECKLEY DIVISION

DEE L. ORMAN SAUNDERS,

Plaintiff,

v.

CIVIL ACTION NO. 5:10-cv-01416

JOEL ZIEGLER,

Defendant.

MEMORANDUM OPINION AND ORDER

The Court has reviewed the Plaintiff's December 28, 2010 letter-form Complaint (Document 1), January 19, 2011 Amended Complaint (Document 4), and January 19, 2011 Application to Proceed Without Prepayment of Fees and Costs (Document 5).

By *Standing Order* (Document 2) entered on December 28, 2010, 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 November 22, 2013, the Magistrate Judge submitted a *Proposed Findings and Recommendation* (Document 13) wherein it is recommended that this Court deny the Plaintiff's Application to Proceed Without Prepayment of Fees and Costs, dismiss the Plaintiff's Complaints, and remove this matter from the Court's docket. Objections to the Magistrate Judge's *Proposed Findings and Recommendation* were due by December 9, 2013.¹

¹The docket reflects that the *Proposed Findings and Recommendation* mailed to the Plaintiff was returned as undeliverable on December 5, 2013.

Neither party has timely filed objections to the Magistrate Judge's *Proposed Findings and Recommendation*. 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 a party'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).

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 the Plaintiff's Application to Proceed Without Prepayment of Fees and Costs (Document 5) be **DENIED**, the Plaintiff's Complaints (Documents 1 and 4) be **DISMISSED WITHOUT PREJUDICE** for failure to prosecute, and 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: December 10, 2013



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