

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

BECKLEY DIVISION

MALEAK WILSON,

Petitioner,

v.

CIVIL ACTION NO. 5:13-cv-22469

TERRY O'BRIEN, Warden,
Federal Correctional Institution-Hazelton,

Respondent.¹

MEMORANDUM OPINION AND ORDER

On September 3, 2013, the Petitioner filed an *Application Under 28 U.S.C. §2241 for Writ of Habeas Corpus By a Person in State or Federal Custody* (Document 1). On December 9, 2013, the Respondent filed a *Response to Order to Show Cause* (Document 10) wherein the Respondent moves for dismissal of the Petitioner's action or, in the alternative, that judgment be entered in favor of the Respondent.

By *Standing Order* (Document 4) entered on September 12, 2013, this action was referred to the Honorable Cheryl A. Eifert, 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 August 21, 2015, the Magistrate Judge submitted a *Proposed Findings and Recommendation* (Document 11) wherein it is recommended that the Petitioner's *Application Under 28 U.S.C. §2241 for Writ of Habeas Corpus By a Person in State or Federal Custody* (Document 1) be denied; that the

¹See Footnote 1 contained in the *Proposed Findings and Recommendation* (Document 11) regarding the party substitution.

Respondent's request for judgment in the Respondent's favor (Document 10) be granted; and that this action be dismissed with prejudice and removed from the Court's docket.

Objections to the Magistrate Judge's *Proposed Findings and Recommendation* were due by September 8, 2015, and none were filed by either party. 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).

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 Petitioner's *Application Under 28 U.S.C. § 2241 for Writ of Habeas Corpus By a Person in State or Federal Custody* (Document 1) be **DENIED**; that the Respondent's request for judgment in the Respondent's favor (Document 10) be **GRANTED**; and that this action be **DISMISSED WITH PREJUDICE** and **REMOVED** from the Court's docket.

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

ENTER: September 10, 2015



IRENE C. BERGER

UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF WEST VIRGINIA