

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

BECKLEY DIVISION

STEVIE W. BAILEY,

Petitioner,

v.

CIVIL ACTION NO. 5:13-cv-31856

STATE OF WEST VIRGINIA,

Respondent.

MEMORANDUM OPINION AND ORDER

On December 6, 2013, the Petitioner filed a letter-form Petition under 28 U.S.C. § 2254 for a Writ of *Habeas Corpus* by a Person in State Custody (Document 1). On January 10, 2014, the Petitioner filed an Amended Petition under 28 U.S.C. § 2254 for a Writ of *Habeas Corpus* by a Person in State Custody (Document 11). On June 17, 2014, the Respondent filed a Motion to Dismiss as Untimely (Document 16).

By *Standing Order* (Document 7) entered on January 6, 2014, 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 June 17, 2014, the Magistrate Judge submitted a *Proposed Findings and Recommendation* (Document 22) wherein it is recommended that this Court grant the Respondent's Motion to Dismiss Petition as Untimely (Document 16), dismiss the Petitioner's Petition under 28 U.S.C. § 2254 for a Writ of *Habeas Corpus* by a Person in State Custody (Documents 1 & 11), and remove


this matter from the Court's docket. Objections to the Magistrate Judge's *Proposed Findings and Recommendation* were due by July 7, 2014.

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 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 Respondent's Motion to Dismiss Petition as Untimely (Document 16) be **GRANTED**, the Petitioner's Petition under 28 U.S.C. § 2254 for a Writ of *Habeas Corpus* by a Person in State Custody (Documents 1 & 11) be **DISMISSED**, 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: August 12, 2014


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