

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

**BECKLEY DIVISION**

JUSTIN WESS MURPHY,

Plaintiff,

v.

CIVIL ACTION NO. 5:14-cv-17031

ADMINISTRATOR MICHAEL FRANCIS, et al.,

Defendants.

**MEMORANDUM OPINION AND ORDER**

On May 28, 2014, the Plaintiff filed his *Complaint* (Document 1) in this matter. Subsequently, on June 6, 2014, the Plaintiff filed an *Application to Proceed Without Prepayment of Fees and Costs* (Document 4).

By *Standing Order* (Document 2) entered on May 28, 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 December 28, 2015, the Magistrate Judge submitted a *Proposed Findings and Recommendation* (Document 12) wherein it is recommended that this Court deny the Plaintiff's *Application to Proceed Without Prepayment of Fees and Costs*, dismiss the Plaintiff's *Complaint*, and remove this matter from the Court's docket.


Objections to the Magistrate Judge's *Proposed Findings and Recommendation* were due by January 14, 2016, and none were timely filed. 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 4) be **DENIED**, the Plaintiff's *Complaint* (Document 1) 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 counsel of record, and any unrepresented party.

ENTER: January 20, 2016

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