

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

BECKLEY DIVISION

TERRY HAMBRIC,

Petitioner,

v.

CIVIL ACTION NO. 5:15-cv-04549

JOE COAKLEY,

Respondent.

MEMORANDUM OPINION AND ORDER

The Petitioner's, proceeding *pro se*, filed his *Application Under 28 U.S.C. § 2241 for Writ of Habeas Corpus By a Person in State or Federal Custody* (Document 2) on April 15, 2015. On February 5, 2016, the Respondent filed a *Response to Order to Show Cause* (Document 20) seeking dismissal of this action.

By *Standing Order* (Document 4) entered on April 17, 2015, 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 October 13, 2016, the Magistrate Judge submitted a *Proposed Findings and Recommendation* (Document 26) wherein it is recommended that this Court deny the Petitioner's § 2241 Application, grant the Respondent's motion to dismiss, and dismiss this matter from the Court's docket. Objections to the Magistrate Judge's *Proposed Findings and Recommendation* were due by October 31, 2016.

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 Petitioner's *Application Under 28 U.S.C. § 2241 for Writ of Habeas Corpus By a Person in State or Federal Custody* (Document 2) be **DENIED**; the Respondent's *Response to Order to Show Cause* (motion to dismiss) (Document 20) be **GRANTED**; and this matter be **DISMISSED** 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: November 4, 2016



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