IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
BECKLEY DIVISION

MICHAEL MAURICE WILSON,

Petitioner,

v. CIVIL ACTION NO. 5:15-cv-14525

WARDEN COAKLEY,

Respondent.

MEMORANDUM OPINION AND ORDER

On October 30, 2015, the Petitioner filed his *Application to Proceed in Forma Pauperis* (Document 1) and his *Application Under 28 U.S.C. § 2241 for Writ of Habeas Corpus By a Person in State or Federal Custody* (Document 2).

By *Standing Order* (Document 3) entered on October 30, 2015, 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. Subsequently, by *Order* (Document 4) entered on January 6, 2016, the case was referred to the Honorable Omar J. Aboulhosn, United States Magistrate Judge, for submission of proposed findings of fact and recommendation for disposition.

On January 10, 2017, Magistrate Judge Aboulhosn submitted a *Proposed Findings and Recommendation* (Document 11) wherein it is recommended that this Court construe 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) as a Motion to Vacate, Set Aside or Correct Sentence under 28 U.S.C. § 2255, and transfer it to the United States District Court for the Eastern District of Virginia.

Objections to the Magistrate Judge's *Proposed Findings and Recommendation* were due by January 27, 2017, and none were filed by either party. On January 20, 2017, the Petitioner filed a letter-form response (Document 13) indicating his agreement with the Magistrate Judge's 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 **CONSTRUED** as a Motion to Vacate, Set Aside or Correct Sentence under 28 U.S.C. § 2255, and be **TRANSFERRED** to the United States District Court for the Eastern District of Virginia.

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

ENTER: January 30, 2017

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