

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

BECKLEY DIVISION

NYTERIA GREEN,

Petitioner,

v.

CIVIL ACTION NO. 5:16-cv-07221
(Criminal No. 5:15-cr-00085-2)

UNITED STATES OF AMERICA,

Respondent.

MEMORANDUM OPINION AND ORDER

On August 4, 2016, the Petitioner, proceeding *pro se*, filed a motion under 28 U.S.C. § 2255 to vacate, set aside or correct sentence (Document 86). By *Standing Order* (Document 87) entered on August 5, 2016, this matter was referred to the Honorable Dwane L. Tinsley, 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 May 29, 2019, the Magistrate Judge submitted a *Proposed Findings and Recommendation* (Document 114) wherein it is recommended that this Court deny the Petitioner's § 2555 motion and dismiss this matter from the Court's docket. Objections to the Magistrate Judge's *Proposed Findings and Recommendation* were due by June 17, 2019, and none were filed by either party.¹

¹ The docket reflects that the *Proposed Findings and Recommendation* mailed to the Petitioner was returned as undeliverable on June 10, 2019.

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 § 2555 motion (Document 86) be **DENIED** 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 Tinsley, counsel of record, and any unrepresented party.

ENTER: July 1, 2019

A handwritten signature in blue ink that reads "Irene C. Berger". The signature is written in a cursive style and is positioned above a horizontal line.

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