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

BECKLEY DIVISION

DARLYN RESTITUYO-GARCIA,

Petitioner,

v. CIVIL ACTION NO. 5:16-cv-07323

WARDEN COKLEY,

Respondent.

MEMORANDUM OPINION AND ORDER

On August 8, 2016, the Petitioner, acting 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 1). By *Standing Order* (Document 2) entered on August 9, 2016, the matter was referred to the Honorable Omar J. Aboulhosn, 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 January 31, 2017, the Magistrate Judge submitted a *Proposed Findings and Recommendation* (Document 11) wherein it is recommended that this Court dismiss the Petitioner's 2241 *Application* and remove this matter from the Court's docket. Objections to the Magistrate Judge's *Proposed Findings and Recommendation* were due by February 17, 2017.

Neither party has timely filed objections to the Magistrate Judge's *Proposed Findings and Recommendation*.[1] The Court is not required to review, under a *de novo* or any other standard, the

[1]On February 24, 2017, the Court received from the Petitioner a request for status of his case (Document 12).

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 1) be **DISMISSED** and that the matter be **REMOVED** from the Court's docket.

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: February 27, 2017

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