

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT BECKLEY**

DON GARFIELD GALLOWAY,

Petitioner,

v.

CIVIL ACTION NO. 5:17-cv-00993

DONNIE AMES, Superintendent,
Mount Olive Correctional Complex,

Respondent.

ORDER

Pending is Respondent Donnie Ames's Motion to Dismiss and Motion for Summary Judgment [Doc. 31], filed May 10, 2023. This action was previously referred to the Honorable Dwane L. Tinsley, United States Magistrate Judge, for submission of proposed findings and a recommendation ("PF&R"). Magistrate Judge Tinsley filed his PF&R on August 30, 2023. Magistrate Judge Tinsley recommended that the Court grant Mr. Ames's Motion to Dismiss and Motion for Summary Judgment, deny Petitioner Don Garfield Galloway's Amended Petition for Writ of Habeas Corpus under 28 U.S.C. § 2254, and dismiss this action. Mr. Galloway timely objected on September 25, 2023. [Doc. 40]

The Court need not 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. *See Thomas v. Arn*, 474 U.S. 140 (1985); *see also* 28 U.S.C. § 636(b)(1) ("A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made."). Failure to file timely objections constitutes a waiver of de novo review and the Petitioner's right to appeal

the Court's order. *See* 28 U.S.C. § 636(b)(1); *see also United States v. De Leon-Ramirez*, 925 F.3d 177, 181 (4th Cir. 2019) (Parties may not typically “appeal a magistrate judge’s findings that were not objected to below, as § 636(b) doesn’t require de novo review absent objection.”); *Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989). Further, the Court need not conduct de novo review when a party “makes general and conclusory objections that do not direct the Court to a specific error in the magistrate’s proposed findings and recommendations.” *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982).

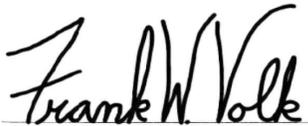
Mr. Galloway’s numerous objections are a rote recital of the contentions raised in his Response in Opposition to Respondent’s Motion to Dismiss and Motion for Summary Judgment [Doc. 34]. The PF&R exhaustively and appropriately considered each ground and defense warranting discussion. Mr. Galloway’s recycled objections merely express a “general and conclusory” disagreement with the magistrate judge’s findings of fact and conclusions of law and “do not direct the Court to a specific error in the magistrate’s proposed findings and recommendations.” *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982). Moreover, the Court is entirely satisfied the PF&R has used the right analytical route to reach the correct result.

Accordingly, the Court **ADOPTS** the PF&R [**Doc. 39**], **GRANTS** the Respondent’s Motion to Dismiss and Motion for Summary Judgment [**Doc. 31**], **DENIES** the Petitioner’s Amended Petition for Writ of Habeas Corpus under 28 U.S.C. § 2254 [**Doc. 27**], and **DISMISSES** the matter.

The Court directs the Clerk to transmit a copy of this Order to any counsel of record and any unrepresented party.

ENTER: September 28, 2023




Frank W. Volk
United States District Judge