

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

BECKLEY DIVISION

BARRY N. HAMNER,

Plaintiff,

v.

CIVIL ACTION NO. 5:19-cv-00376

SOUTHERN REGIONAL JAIL, et al.,

Defendants.

MEMORANDUM OPINION AND ORDER

On May 13, 2019, the Petitioner, proceeding *pro se*, filed an *Application to Proceed Without Prepayment of Fees and Costs* (Document 1) and a *Complaint* (Document 2). By *Standing Order* (Document 3) entered on that date, 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 August 27, 2019, the Magistrate Judge submitted a *Proposed Findings and Recommendation* (Document 6) wherein it is recommended that this Court deny the Petitioner's *Application to Proceed Without Prepayment of Fees and Costs* (Document 1), dismiss the Petitioner's *Complaint* (Document 2) without prejudice, and remove this matter from the Court's docket. Objections to the Magistrate Judge's *Proposed Findings and Recommendation* were due by September 13, 2019.¹

¹The docket reflects that the *Proposed Findings and Recommendation* mailed to the Petitioner was returned as undeliverable on September 9, 2019.

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 a party'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 to Proceed Without Prepayment of Fees and Costs* (Document 1) be **DENIED**, the Petitioner's *Complaint* (Document 2) be **DISMISSED without prejudice**, and this 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: September 16, 2019



IRENE C. BERGER

UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF WEST VIRGINIA