

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

TAMIEN DERRICK BAIN,

Petitioner,

v.

CIVIL ACTION NO. 5:23-cv-00346

HECKARD,

Respondent.

ORDER

Pending are (1) Tamien Derrick Bain’s Petition Under 28 U.S.C. § 2241 for Writ of Habeas Corpus [Doc. 1], filed on April 1, 2023, and (2) Respondent’s Motion to Dismiss for Mootness [Doc. 12], filed on March 15, 2024. 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”). [Doc. 3]. Magistrate Judge Tinsley filed his PF&R on May 6, 2024. [Doc. 13]. Magistrate Judge Tinsley recommended that the Court dismiss as moot the Petitioner’s 28 U.S.C. § 2241 for Writ of Habeas Corpus Petition and dismiss it from the docket. [*Id.*]. The PF&R provides that Mr. Bain was released on February 14, 2024, and that “Petitioner has been released from BOP custody without any collateral consequences under the circumstances presented; thus, this court cannot grant him his requested relief.” [Doc. 13 at 2].

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.*” (emphasis

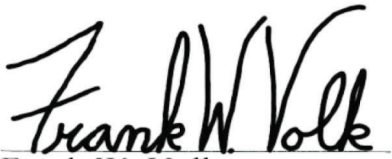
added)). Failure to file timely objections constitutes a waiver of de novo review and the Petitioner's right to appeal the Court's order. *See* 28 U.S.C. § 636(b)(1); *see also United States v. De Leon-Ramirez*, 925 F.3d 177, 181 (4th Cir. 2019) (Parties may not typically "appeal a magistrate judge's 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). Objections in this case were due on May 23, 2024. [Doc. 7]. No objections were filed.

Accordingly, the Court **ADOPTS** the PF&R [Doc. 13], **DENIES AS MOOT** the Petitioner's Petition and Memorandum of Support [Doc. 1], **GRANTS** the Respondent's Motion to Dismiss [Doc. 12], 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.

ENTERED: June 4, 2024




Frank W. Volk
United States District Judge