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

NOE DUENAS-MOLINA,

Plaintiff,

v. **CIVIL ACTION NO. 1:05CV54**
(Judge Keeley)

K.J. WENDT,

Respondent.

ORDER ADOPTING REPORT AND RECOMMENDATION

On January 24, 2005, pro se petitioner Noe Duenas-Molina filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241. Duenas-Molina subsequently moved the Court to construe his petition as a motion to amend seeking to correct his sentence under 28 U.S.C. § 2255. The Court referred this matter to United States Magistrate Judge John S. Kaull for initial screening and a report and recommendation in accordance with Local Rule of Prisoner Litigation 83.09. On April 26, 2005, Judge Kaull issued a Report and Recommendation recommending that the Court grant Duenas-Molina's motion to amend and enter an order transferring the case to the District of Nevada, which has jurisdiction to review the § 2255 motion.

The Report and Recommendation also specifically warned that Duenas-Molina's failure to object to the recommendation would result in the waiver of his appellate rights on this issue.

Nevertheless, Duenas-Molina has not filed any objections.[1]

Consequently, the Court **ADOPTS** the Report and Recommendation in its entirety, **GRANTS** Duenas-Molina's motion to amend, and **TRANSFERS** the case to the United States District Court for the District of Nevada. The Court directs the Clerk to strike the case from the docket.

It is so **ORDERED.**

The Clerk is directed to mail a copy of this Order to the petitioner.

Dated: May 12, 2005.

Irene M. Keeley
IRENE M. KEELEY
UNITED STATES DISTRICT JUDGE

[1] Duenas-Molina's failure to object to the Report and Recommendation not only waives his appellate rights in this matter, but also relieves the Court of any obligation to conduct a de novo review of the issue presented. See Thomas v. Arn, 474 U.S. 140, 148-153 (1985); Wells v. Shriners Hosp., 109 F.3d 198, 199-200 (4th Cir. 1997).