

FILED

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

JUN - 8 2006

U.S. DISTRICT COURT
CLARKSBURG, WV 26301

DUNCAN J. MCNEIL, III,

Plaintiff,

v.

//

CIVIL ACTION NO. 1:05CV142
(Judge Keeley)

UNITED STATES OF AMERICA;
CLERK - U.S. DISTRICT COURT NDWV;
CLERK - U.S. BANKRUPTCY COURT - NDWV;
UNITED STATES ATTORNEY - NDWV;
OFFICE OF THE TRUSTEE - NDWV;
U.S. MARSHAL SERVICE - NDWV;
FBI - NDWV; IRS - NDWV; and
SECRET SERVICE - NDWV,

Defendants.

ORDER ADOPTING REPORT AND RECOMMENDATION AND DISMISSING THE CASE

On March 16, 2006, the pro se plaintiff, Duncan J. McNeil, III ("McNeil"), filed a motion to amend or correct the Court's March 2, 2006 Order adopting the magistrate judge's January 20, 2006 report and recommendation and dismissing this case without prejudice. As his ground for the motion, McNeil asserted that he did not receive a copy of the magistrate judge's report and recommendation¹ which specifically warned that failure to object to the recommendation would result in a waiver of his appellate rights on this issue and, therefore, he could not object. McNeil stated that he had problems with the BOP mail service with respect to receiving his legal mail

¹ In his January 20th report and recommendation, Magistrate Judge Seibert recommended that McNeil's case be dismissed under 28 U.S.C. §§ 1915A and 1915(e) for failure to state a claim. The report and recommendation also specifically warned that failure to object to the recommendation would result in a waiver of his appellate rights on this issue.

and that those problems had just recently been resolved.

Accordingly, on March 24, 2006, the Court entered an Order, vacating its March 16, 2006 Order and directing the Clerk to reopen the case and resend the January 20, 2006 report and recommendation to McNeil. In its March 24th Order, the Court also directed McNeil to file his objections with the Court on or before April 28, 2006.

On April 3, 2006, the Clerk received the return receipt showing that service of the Court's March 24, 2006 Order and the January 20, 2006 report and recommendation had been accepted on behalf of McNeil. McNeil, however, has failed to file any objections to the magistrate judge's January 20, 2006 report and recommendation despite being provided with additional time by the Court.² Consequently, the Court **ADOPTS** the report and recommendation in its entirety and **ORDERS** McNeill's case **DISMISSED WITH PREJUDICE** and stricken from the Court's docket.

It is so **ORDERED**.

The Clerk is directed to mail a copy of this Order to the pro se plaintiff, certified mail return receipt requested.

Dated: June 8, 2006.


IRENE M. KEELEY
UNITED STATES DISTRICT JUDGE

² McNeill'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).