

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

FERDELL HARVEY,

Petitioner,

v.

//

CIVIL ACTION NO. 1:06CV180
(Judge Keeley)

JOE DRIVER, Warden,

Respondent.

ORDER ADOPTING REPORT AND RECOMMENDATION

On December 19, 2006, pro se petitioner, Ferdell Harvey, filed an "Application for Habeas Corpus Pursuant to 28 U.S.C. § 2241," challenging the computation of his sentence and good time credits by the Bureau of Prisons ("BOP"). The Court referred this matter to United States Magistrate Judge John S. Kaul for initial screening and a report and recommendation in accordance with Local Rule of Prisoner Litigation 83.09.

On March 22, 2007, the respondent, Joe Driver ("Driver"), filed a Response and a Motion to Dismiss. Because Harvey initially failed to respond, Magistrate Judge Kaul issued a Roseboro Notice. Harvey then filed his response to Driver's Motion to Dismiss on April 4, 2007. On November 29, 2007, Magistrate Judge Kaul issued an Opinion and Report and Recommendation recommending that Driver's Motion to Dismiss be granted, and that Harvey's motion under § 2241 be denied and dismissed with prejudice.

Magistrate Judge Kaul recommended granting Driver's motion because Harvey's sentence has been properly computed by the BOP, he has been awarded the Good Conduct Time to which he is entitled, and

ORDER ADOPTING OPINION/REPORT AND RECOMMENDATION

he is not entitled to an award of Meritorious Good Time Credits, as such credits are discretionary and no BOP staff member has made any recommendation or submission for Meritorious Good Time Credits on Harvey's behalf.

The Report and Recommendation also specifically warned that failure to object to the recommendation would result in the waiver of any appellate rights on this issue. No objections were filed.¹

The Court, therefore, **ADOPTS** the Report and Recommendation in its entirety. Accordingly, the Court **GRANTS** Driver's Motion to Dismiss (dkt. no. 8), **DENIES** Harvey's motion under § 2241 challenging the BOP's computation of his sentence and good time credits (dkt. no. 1), and **ORDERS** Harvey's case **DISMISSED WITH PREJUDICE** and stricken from the Court's docket.

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

Dated: January 10, 2008

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

¹ The failure to object to the Report and Recommendation not only waives the 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).