

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

UNITED STATES OF AMERICA,

Plaintiff,

v. // CRIMINAL ACTION NO. 1:10CR7  
(Judge Keeley)

MICHAEL J. PAVLOCK and  
RICHARD W. POWELL, JR.,

Defendants.

ORDER ADOPTING REPORT AND RECOMMENDATION [DKT. NO. 174] AND  
DENYING DEFENDANT PAVLOCK'S THIRD MOTION TO DISMISS INDICTMENT  
[DKT. NO. 136]

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On September 20, 2010, the defendant, Michael J. Pavlock ("Pavlock"), filed a third motion to dismiss the indictment (dkt. no. 136). On September 21, 2010, the Court referred this matter to the Honorable John S. Kaul, United States Magistrate Judge ("Magistrate Judge Kaul"), for a report and recommendation ("R&R") (dkt. no. 140).

On October 26, 2010, Magistrate Judge Kaul issued an R&R recommending that Pavlock's third motion to dismiss the indictment be denied (dkt. no. 174). The R&R also specifically warned that failure to object to the recommendation within fourteen days of receipt of the R&R would result in the waiver of any appellate rights on these issues. Pavlock received service of the R&R on October 26, 2010, and his co-defendant, Richard W. Powell, Jr., received service of the R&R on October 28, 2010 (dkt. no. 182). To

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date, no objections have been filed.<sup>1</sup>

The Court, therefore, **ADOPTS** the R&R in its entirety (dkt. no. 174), and **DENIES** Pavlock's third motion to dismiss the indictment (dkt. no. 136).

It is so **ORDERED**.

The Court directs the Clerk to transmit a copy of this Order to counsel of record.

Dated: November 12, 2010.

/s/ Irene M. Keeley

IRENE M. KEELEY

UNITED STATES DISTRICT JUDGE

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<sup>1</sup> 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, 148-53 (1985); Wells v. Shriners Hosp., 109 F.3d 198, 199-00 (4th Cir. 1997).