

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

EDWIN MARRERO,

Petitioner

v.

//

CIVIL ACTION NO. 1:11CV106
(Judge Keeley)

TERRY O'BRIEN,
Warden,

Respondent.

ORDER ADOPTING REPORT AND RECOMMENDATION

On July 8, 2011, pro se petitioner, Edwin Marrero ("Marrero"), filed a petition pursuant to 28 U.S.C. § 2241 (dkt. no. 1) as well as a "Motion for an Emergency Abeyance Order" (dkt. no. 6). The Court referred this matter to United States Magistrate Judge Kaul for initial screening and a report and recommendation in accordance with Local Rule of Prisoner Litigation 83.02.

On December 6, 2011, Magistrate Judge Kaul issued an Opinion and Report and Recommendation ("R&R") recommending that Marrero's petition and motion be denied and that this case be dismissed without prejudice (dkt. no. 16). Magistrate Judge Kaul determined that Marrero's § 2241 petition was improperly filed because it does not challenge the legality of his custody or seek speedier release from imprisonment; alternatively, to the extent it does, Marrero failed to first exhaust his administrative remedies.

The R&R also specifically warned Marrero and O'Brien that failure to object to the recommendation would result in the waiver

ORDER ADOPTING REPORT AND RECOMMENDATION

of any appellate rights they may have on this issue. The parties, however, filed no objections.¹

Consequently, the Court **ADOPTS** the Report and Recommendation in its entirety (dkt. no. 16), **DENIES AS MOOT** the motion for an emergency abeyance (dkt. no. 6), and **ORDERS** the petition for writ of habeas corpus **DISMISSED WITHOUT PREJUDICE** (dkt. no. 1) and the case stricken from the Court's docket.

It is so **ORDERED**.

Pursuant to Fed. R. Civ. P. 58, the Court directs the Clerk of Court to enter a separate judgment order and to transmit copies of both orders to counsel of record and to the pro se petitioner, certified mail, return receipt requested.

Dated: January 9, 2012

/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).