

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

**CRIMINAL CASE NO. 3:12-CR-34
(JUDGE GROH)**

**STEVEN A. CRITES and
GEORGE VANWAGNER,**

Defendants.

ORDER ADOPTING REPORT AND RECOMMENDATION

On this day, the above-styled matter came before the Court for consideration of the Report and Recommendation of United States Magistrate Judge David J. Joel. Pursuant to this Court's Local Rules, this action was referred to Magistrate Judge Joel for submission of a proposed report and a recommendation ("R & R"). Magistrate Judge Joel filed his R & R on March 13, 2013 [Doc. 72]. In that filing, the magistrate judge recommended that this Court deny Defendant George VanWagner's Motion for Relief from Prejudicial Joinder [Doc. 62] as premature.

Pursuant to 28 U.S.C. §636(b)(1)(c), this Court is required to make a *de novo* review of those portions of the magistrate judge's findings to which objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. ***Thomas v. Arn***, 474 U.S. 140, 150 (1985). In addition, failure to file timely objections constitutes a waiver of *de novo* review and the petitioner's right to appeal this Court's Order. 28 U.S.C. §636(b)(1); ***Snyder***

v. Ridenour, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984). Objections to Magistrate Judge Joel's R & R were due within fourteen (14) days of being served with a copy of the same, pursuant to 28 U.S.C. §636(b)(1) and Fed. R. Civ. P. 72(b). Neither party filed objections to the R & R. Accordingly, this Court will review the report and recommendation for clear error.

Upon careful review of the report and recommendation, it is the opinion of this Court that the magistrate judge's **Report and Recommendation [Doc. 72]** should be, and hereby is, **ORDERED ADOPTED** for the reasons more fully stated in the magistrate judge's report. Accordingly, the Court hereby **DENIES WITHOUT PREJUDICE** Defendant VanWagner's Motion for Relief from Prejudicial Joinder **[Doc. 62]**. The Defendant is granted leave to re-file the motion should a specific conflict arise.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to all counsel of record and/or *pro se* parties.

DATED: April 11, 2013.


GINA M. GROH
UNITED STATES DISTRICT JUDGE