

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

LOUIS J. DELGIORNO,

Plaintiff,

v.

**CIVIL ACTION NO. 3:12-CV-132
(JUDGE GROH)**

WEST VIRGINIA BOARD OF MEDICINE,

Defendant.

ORDER ADOPTING REPORT AND RECOMMENDATION

On this day, the above-styled matter came before the Court for consideration of the Report and Recommendation (“R&R”) of United States Magistrate Judge James E. Seibert. The Court referred the Defendant’s Motion for Attorneys’ Fees and Costs [Doc. 30] and the *pro se* Plaintiff’s Motion to Dismiss the Defendant’s motion [Doc. 34] to Magistrate Judge Seibert for submission of an R&R. Magistrate Judge Seibert filed his R&R on June 3, 2014 [Doc. 45]. He recommends that the Court deny the Defendant’s motion.

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). 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 Seibert's R&R were due within fourteen days of being served with a copy of the same. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). The docket reflects that the Defendant was served on June 3, 2014 and the Plaintiff was served on June 7, 2014.¹ Neither party has filed objections to the R&R. Accordingly, this Court will review the R&R for clear error.

Upon careful review of the R&R, it is the opinion of this Court that the magistrate judge's Report and Recommendation should be, and is, hereby **ORDERED ADOPTED** for the reasons more fully stated in the magistrate judge's report. Accordingly, the Court **DENIES** the Defendant's Motion for Attorneys' Fees and Costs. Because the Court denied this motion, the Court **DENIES AS MOOT** the Plaintiff's Motion to Dismiss Defendant's Request for Attorney's Fees.

It is so **ORDERED**.

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

DATED: June 25, 2014



GINA M. GROH
UNITED STATES DISTRICT JUDGE

¹ Though the return receipt associated with the R&R mailed to the Plaintiff has not been docketed, entering the tracking number of the United States Postal Service's website reveals that the R&R was delivered on June 7, 2014.