

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

RAY LOY,

Petitioner,

v.

//

CIVIL ACTION NO.1:13CV117
(Judge Keeley)

EVELYN SEIFERT, Warden,
Northern Correctional Facility,

Respondent.

ORDER ADOPTING REPORT AND RECOMMENDATION ON PETITIONER'S MOTION
FOR SUMMARY JUDGMENT [Dkt. No. 48]

On March 28, 2013, the pro se petitioner, Ray Loy ("Loy"), filed a petition pursuant to 28 U.S.C. § 2254. (Dkt. No. 1). The Court referred the matter to United States Magistrate Judge John S. Kaul for initial screening and a report and recommendation in accordance with LR PL P 2. On August 29, 2013, Loy filed a motion for summary judgment. (Dkt. No. 39).

On October 22, 2013, Magistrate Judge Kaul issued an Opinion and Report and Recommendation ("R&R"), in which he recommended that Loy's motion for summary judgment be denied (dkt. no. 48) as premature because the respondent has not yet answered the petition.

The R&R also specifically warned Loy that his failure to object to the recommendation would result in the waiver of any appellate rights he might otherwise have on this issue. The parties did not file any objections to the magistrate judge's recommendation on Loy's motion for summary judgment. Consequently, finding no clear error, the Court **ADOPTS** the Report and

ORDER ADOPTING REPORT AND RECOMMENDATION

Recommendation (dkt. no. 48) and **DENIES** Loy's motion for summary judgment (dkt. no. 39).

It is so **ORDERED**.

The Clerk is directed to transmit copies of the order to counsel of record and the pro se petitioner, certified mail, return receipt requested.

Dated: January 17, 2014.

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