

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

ANTOINE D. ALLEN,

Petitioner,

v.

//

CIVIL ACTION NO. 1:14CV39
(Judge Keeley)

TERRY O'BRIEN,

Respondent.

ORDER ADOPTING REPORT AND RECOMMENDATION [DKT. NO. 8]

On March 10, 2014, the pro se petitioner, Antoine D. Allen ("Allen"), filed an application for habeas corpus pursuant to 28 U.S.C. §§ 2241, which the Court referred to United States Magistrate Judge Robert W. Trumble for initial screening and a Report and Recommendation ("R&R") in accordance with LR PL P 2.

On July 17, 2014, Magistrate Judge Trumble issued a R&R, in which he recommended that the Court dismiss Allen's petition as improperly filed (Dkt. No. 8 at 5). Because the petition was challenging Allen's underlying conviction and sentence, he should have filed it as a motion under 28 U.S.C. § 2255. Id.

The R&R also specifically warned Allen that his failure to object to the recommendation would result in the waiver of any appellate rights he might otherwise have on this issue. Id. at 6. The parties did not file any objections.¹ Consequently, finding no

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).

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clear error, the Court **ADOPTS** the Report and Recommendation in its entirety (Dkt. No. 8), **DENIES** the petition (Dkt. No. 1), and **ORDERS** that this case be **DISMISSED WITH PREJUDICE** and stricken from the Court's active 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: October 15, 2015.

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