

**UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
WEST VIRGINIA**

**Michael Gardner v. Shane Peacock, Kim Johnson, and Carrie
Dehewen**

Gardner · No. 5:26-cv-00120 · Decided May 5, 2026

SUMMARY

The court adopts a magistrate judge’s proposed findings and recommendation after no objections were filed. It denies the petitioner’s applications to proceed without prepayment of fees or costs, dismisses the complaint and amended complaint, and directs that the matter be dismissed from the docket.

OPINION

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF WEST VIRGINIA AT BECKLEY MICHAEL GARDNER, Petitioner, v. CIVIL ACTION NO. 5:26-cv-00120 SHANE PEACOCK and KIM JOHNSON and CARRIE DEHEWEN, Respondents. ORDER Pending are Plaintiff Michael Gardner’s Application to Proceed Without Prepayment of Fees and Costs [ECF 1] and Complaint [ECF 2] both filed February 18, 2026, as well as his Amended Application to Proceed Without Prepayment of Fees and Costs [ECF 6] and Amended Complaint [ECF 7], both filed March 4, 2026.

This action was previously referred to the Honorable Omar J. Aboulhosn, United States Magistrate Judge, for submission of proposed findings and a recommendation (“PF&R”). Magistrate Judge Aboulhosn filed his PF&R on March 9, 2026. [See ECF 8]. Magistrate Judge Aboulhosn recommended that the Court deny the Application to Proceed Without Prepayment of Fees or Costs and Amended Application to Proceed Without Prepayment of Fees or Costs, dismiss the Complaint and Amended Complaint, and remove this matter from the docket.

[Id. at 8]. The Court need not 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. See *Thomas v. Arn*, 474 U.S. 140 (1985); see also 28 U.S.C. § 636(b)(1) (“A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” (emphasis added)).

Failure to file timely objections constitutes a waiver of de novo review and the Petitioner’s right to appeal the Court’s order. See 28 U.S.C. § 636(b)(1); see also *United States v. De Leon- Ramirez*, 925 F.3d 177, 181 (4th Cir. 2019) (Parties may not typically “appeal a magistrate judge’s findings

that were not objected to below, as § 636(b) doesn't require de novo review absent objection."); Snyder v. Ridenour, 889 F.2d 1363, 1366 (4th Cir.

1989). Further, the Court need not conduct de novo review when a party "makes general and conclusory objections that do not direct the Court to a specific error in the magistrate's proposed findings and recommendations." Orpiano v. Johnson, 687 F.2d 44, 47 (4th Cir. 1982). Objections in this case were due on March 26, 2026. No objections were filed.

Accordingly, the Court ADOPTS the PF&R [ECF 8], DENIES the Application to Proceed Without Prepayment of Fees or Costs [ECF 1] and Amended Application to Proceed Without Prepayment of Fees or Costs [ECF 6], DISMISSES the Complaint [ECF 2] and Amended Complaint [ECF 7], and DISMISSES the matter.

The Court directs the Clerk to transmit a copy of this Order to counsel of record and any unrepresented party. ENTER: May 5, 2026 ZeodN Va ©: W. Volk Chief United States District Judge