

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
WEST VIRGINIA

Jerry Rowell, Jr. v. Warden Rokosky

Rowell · No. 1:24-00436 · Decided January 5, 2026

SUMMARY

The United States District Court for the Southern District of West Virginia adopts the magistrate judge’s findings and recommendation recommending dismissal of Jerry Rowell, Jr.’s 28 U.S.C. § 2241 habeas petition. The court grants the defendant’s motion to dismiss, removes the case from the active docket, and denies a certificate of appealability.

CASE DETAILS

COURT	United States District Court for the Southern District of West Virginia
WRITING FOR THE COURT	David A. Faber
JURISDICTION	United States District Court for the Southern District of West Virginia
DECIDED	January 5, 2026
DOCKET	1:24-00436
DISPOSITION	dismissed
PROCEDURAL POSTURE	Petitioner brought a petition for a writ of habeas corpus under 28 U.S.C. § 2241. After the magistrate judge recommended granting the respondent's motion to dismiss, and neither party filed objections, the district court adopted the recommendation, dismissed the petition, closed the case, and denied a certificate of appealability.
STANDARD OF REVIEW	Because neither party objected to the magistrate judge's Findings and Recommendation, the court treated the failure to object as a waiver of de novo review. For a certificate of appealability, the court applied the substantial-showing standard under 28 U.S.C. § 2253(c)(2).
PRECEDENTIAL VALUE	Unpublished district court memorandum opinion and order; precedential status not stated.
PARTIES	Jerry Rowell, Jr. v. Warden Rokosky

TOPICS

- federal habeas corpus
- motions to dismiss
- post-conviction relief
- appellate procedure
- standard of review

PRACTICE AREAS

federal habeas corpus

post-conviction relief

civil procedure

appellate procedure

QUESTIONS PRESENTED

1. Whether the district court should adopt the magistrate judge's Findings and Recommendation and grant the respondent's motion to dismiss the § 2241 habeas petition.
2. Whether to issue a certificate of appealability under 28 U.S.C. § 2253(c).

HOLDINGS

1. A party's failure to file timely objections waives that party's right to de novo review by the district court.
2. The court adopted the magistrate judge's Findings and Recommendation and granted the respondent's motion to dismiss the petition for a writ of habeas corpus under 28 U.S.C. § 2241.
3. A certificate of appealability should be denied when the petitioner has not made a substantial showing of the denial of a constitutional right, including because reasonable jurists would not debate the court's assessment of the claims or its dispositive procedural ruling.

KEY QUOTATIONS

“A certificate will not be granted unless there is “a substantial showing of the denial of a constitutional right.”” (2)

FACTUAL BACKGROUND

Jerry Rowell, Jr. filed a petition for a writ of habeas corpus under 28 U.S.C. § 2241. The respondent moved to dismiss the petition. The magistrate judge recommended dismissal, and the parties did not object within the prescribed period.

PROCEDURAL HISTORY

The action was referred to Magistrate Judge Omar J. Aboulhosen under 28 U.S.C. § 636(b)(1)(B). The magistrate judge issued Findings and Recommendation on July 17, 2025, recommending dismissal of the § 2241 petition and removal of the matter from the docket. The parties filed no objections within the allotted seventeen-day period, so the district court adopted the Findings and Recommendation, granted the motion to dismiss, closed the case, and denied a certificate of appealability.

DISPOSITION

dismissed

CASES CITED

- Snyder v. Ridenour, 889 F.2d 1363 (4th Cir. 1989)
- Miller-El v. Cockrell, 537 U.S. 322, 336-38 (2003)

- Slack v. McDaniel, 529 U.S. 473, 484 (2000)
- Rose v. Lee, 252 F.3d 676, 683-84 (4th Cir. 2001)

OPINION

Rowell

PER CURIAM.

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT BLUEFIELD

JERRY ROWELL, JR.,

Plaintiff,

v. CIVIL ACTION NO. 1:24-00436

WARDEN ROKOSKY,

Defendant.

MEMORANDUM OPINION AND ORDER

By Standing Order, this action was referred to United States Magistrate Judge Omar J. Aboulhosn for submission of findings and recommendations regarding disposition pursuant to 28 U.S.C. § 636(b)(1)(B). Magistrate Judge Aboulhosn submitted to the court his Findings and Recommendation (“PF&R”) on July 17, 2025, in which he recommended that the district court grant defendant’s motion to dismiss plaintiff’s petition for a writ of habeas corpus pursuant to U.S.C. § 2241 and remove this matter from the court’s docket. In accordance with the provisions of 28 U.S.C. § 636(b), the parties were allotted fourteen days, plus three mailing days, in which to file any objections to Magistrate Judge Aboulhosn’s Findings and Recommendation. The failure of any party to file such objections constitutes a waiver of such party’s right to a de novo review by this court. *Snyder v. Ridenour*, 889 F.2d 1363 (4th Cir. 1989). The parties failed to file any objections to the Magistrate Judge’s Findings and Recommendation within the seventeen-day period. Having reviewed the Findings and Recommendation filed by Magistrate Judge Aboulhosn, the court adopts the findings and recommendations contained therein. Accordingly, the court hereby GRANTS defendant’s motion to dismiss plaintiff’s petition for a writ of habeas corpus pursuant to U.S.C. § 2241 and directs the Clerk to remove this case from the court’s active docket. Additionally, the court has considered whether to grant a certificate of appealability. See 28 U.S.C. § 2253(c). A certificate will not be granted unless there is “a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). The standard is satisfied only upon a showing that reasonable jurists would find that any assessment of the constitutional claims by this court is debatable or wrong and that any dispositive procedural ruling is likewise debatable. *Miller-El v. Cockrell*, 537 U.S. 322, 336-38 (2003); *Slack v. McDaniel*, 529 U.S. 473, 484 (2000); *Rose v. Lee*, 252 F.3d 676, 683-84 (4th Cir. 2001). The court concludes that the governing standard is not satisfied in this instance. Accordingly, the court DENIES a certificate of appealability. 2 The Clerk

is directed to forward a copy of this Memorandum Opinion and Order to plaintiff and counsel of record. IT IS SO ORDERED this 5th day of January, 2026. ENTER: David A. Faber Senior United States District Judge

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