

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
WEST VIRGINIA

April Nesbitt v. Warden

Nesbitt · No. 1:24-00668 · Decided April 1, 2026

SUMMARY

The United States District Court for the Southern District of West Virginia adopted the magistrate judge’s findings and recommendation and dismissed April Nesbitt’s 28 U.S.C. § 2241 habeas petition as moot. The court removed the matter from its active docket and denied 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	April 1, 2026
DOCKET	1:24-00668
DISPOSITION	dismissed
PROCEDURAL POSTURE	Plaintiff petitioned for a writ of habeas corpus under 28 U.S.C. § 2241. After the magistrate judge recommended dismissal as moot, neither party filed objections, and the district court adopted the Findings and Recommendation.
STANDARD OF REVIEW	Absent objections to a magistrate judge's findings and recommendation, a party waives de novo review. A certificate of appealability requires a substantial showing of the denial of a constitutional right; for a dispositive procedural ruling, reasonable jurists must find the ruling debatable.
PRECEDENTIAL VALUE	unpublished
PARTIES	April Nesbitt v. Warden

TOPICS

- federal habeas corpus
- mootness
- appellate procedure
- standard of review

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the plaintiff's petition for a writ of habeas corpus under 28 U.S.C. § 2241 should be dismissed as moot.
2. Whether the plaintiff was entitled to a certificate of appealability.

HOLDINGS

1. The court adopted the magistrate judge's Findings and Recommendation and dismissed the plaintiff's § 2241 habeas petition as moot.
2. The court denied a certificate of appealability because the governing standard was not satisfied.

KEY QUOTATIONS

“Accordingly, the court hereby DISMISSES as moot plaintiff’s petition for a writ of habeas corpus under 28 U.S.C. § 2241 and directs the Clerk to remove this case from the court’s active docket.” (at 2)

“The court concludes that the governing standard is not satisfied in this instance. Accordingly, the court DENIES a certificate of appealability.” (at 2)

FACTUAL BACKGROUND

The opinion identifies April Nesbitt as the petitioner in a federal habeas action under 28 U.S.C. § 2241 against a warden. The court adopted the magistrate judge's recommendation that the petition be dismissed as moot, but the opinion does not state the underlying circumstances that rendered the petition moot.

PROCEDURAL HISTORY

The action was referred to Magistrate Judge Omar J. Aboulhosn under 28 U.S.C. § 636(b)(1)(B). On January 5, 2026, the magistrate judge recommended dismissing the § 2241 petition as moot and removing the case from the docket. The parties filed no objections within the applicable seventeen-day period, so the district court adopted the recommendation, dismissed the petition as moot, 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

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA AT BLUEFIELD APRIL NESBITT, Plaintiff, v. CIVIL ACTION NO. 1:24-00668 WARDEN, 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 January 5, 2026, in which he recommended that the district court dismiss as moot plaintiff’s petition for a writ of habeas corpus under 28 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 **DISMISSES** as moot plaintiff’s petition for a writ of habeas corpus under 28 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 1st day of April, 2026. ENTER: David A. Faber Senior United States District Judge

