

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
WEST VIRGINIA

Amber Rewis Bruey v. Warden Cutwright

Civil Action No. 1:24-00354 (S.D. W. Va. June 26, 2026) · No. 1:24-00354 · Decided June 26, 2026

SUMMARY

The United States District Court for the Southern District of West Virginia adopted a magistrate judge’s findings and recommendation and dismissed Amber Rewis Bruey’s 28 U.S.C. § 2241 habeas petition as moot. The court also denied a certificate of appealability and directed the Clerk to remove the case from the active docket.

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	June 26, 2026
DOCKET	1:24-00354
DISPOSITION	dismissed
PROCEDURAL POSTURE	Plaintiff brought a petition for a writ of habeas corpus under 28 U.S.C. § 2241. After a magistrate judge issued Findings and Recommendation recommending dismissal as moot, no party filed objections, and the district court adopted the Findings and Recommendation.
STANDARD OF REVIEW	A party's failure to object to a magistrate judge's Findings and Recommendation waives the right to de novo review. A certificate of appealability requires a substantial showing of the denial of a constitutional right, including that reasonable jurists would find the court's constitutional or procedural ruling debatable or wrong.
PRECEDENTIAL VALUE	unknown
PARTIES	Amber Rewis Bruey v. Warden Cutwright

TOPICS

- federal habeas corpus
- mootness
- appellate procedure
- standard of review
- post-conviction relief

PRACTICE AREAS

federal habeas corpus

post-conviction relief

appellate procedure

QUESTIONS PRESENTED

1. Whether the court should adopt the magistrate judge's recommendation and dismiss the § 2241 habeas petition as moot.
2. Whether plaintiff was entitled to a certificate of appealability.

HOLDINGS

1. Because the parties filed no objections within the seventeen-day period, they waived their right to de novo review of the Findings and Recommendation.
2. The petition for a writ of habeas corpus under 28 U.S.C. § 2241 was dismissed as moot.
3. A certificate of appealability was denied because plaintiff did not satisfy the applicable substantial-showing standard.

KEY QUOTATIONS

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

FACTUAL BACKGROUND

The opinion contains no substantive factual findings concerning the underlying habeas claims. The court relied on the magistrate judge's recommendation that the § 2241 petition had become moot.

PROCEDURAL HISTORY

The action was referred to Magistrate Judge Omar J. Aboulhosen under 28 U.S.C. § 636(b)(1)(B). The magistrate judge recommended dismissal of the § 2241 petition as moot and removal of the matter from the docket. The parties filed no objections within the applicable seventeen-day period, so the district court adopted the Findings and Recommendation, dismissed the petition as moot, 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 AMBER REWIS BRUEY, Plaintiff, v. CIVIL ACTION NO. 1:24-00354 WARDEN CUTWRIGHT, 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 9, 2025, 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 26th day of June, 2026. ENTER: David A. Faber Senior United States District Judge

