

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
WEST VIRGINIA

Donald H. Dampier, Jr. v. Warden Rokosky

Dampier v. Rokosky · No. 1:23-00592 · Decided March 5, 2026

SUMMARY

The United States District Court for the Southern District of West Virginia adopted a magistrate judge’s Findings and Recommendation after the parties filed no objections. The court dismissed Donald H. Dampier, Jr.’s 28 U.S.C. § 2241 habeas petition, removed the matter from the 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	March 5, 2026
DOCKET	1:23-00592
DISPOSITION	dismissed
PROCEDURAL POSTURE	Petition for a writ of habeas corpus under 28 U.S.C. § 2241 referred to a magistrate judge for proposed findings and recommendations; the district court reviewed and adopted the unobjected-to findings and recommendation.
STANDARD OF REVIEW	Absent timely objections to a magistrate judge's findings and recommendation, a party waives the right to de novo review.
PRECEDENTIAL VALUE	unpublished district court memorandum opinion; precedential status not stated
PARTIES	Donald H. Dampier, Jr. v. Warden Rokosky

TOPICS

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

PRACTICE AREAS

- federal habeas corpus
- post-conviction relief
- appellate procedure

QUESTIONS PRESENTED

1. Whether the district court should adopt the magistrate judge's findings and recommendation when neither party filed timely objections.
2. Whether the plaintiff's § 2241 habeas petition should be dismissed and removed from the court's active docket.
3. Whether to grant a certificate of appealability.

HOLDINGS

1. A party that fails to file timely objections to a magistrate judge's findings and recommendation waives the right to de novo review.
2. The court adopted the magistrate judge's findings and recommendation and dismissed the plaintiff's petition for a writ of habeas corpus under § 2241.
3. A certificate of appealability was denied because the governing standard was not satisfied.

KEY QUOTATIONS

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

FACTUAL BACKGROUND

The plaintiff filed a petition for a writ of habeas corpus under 28 U.S.C. § 2241. The magistrate judge recommended dismissal, and the parties did not object within the prescribed period. The district court reviewed and adopted the recommendation and separately determined that the standard for issuing a certificate of appealability was not satisfied.

PROCEDURAL HISTORY

The action was referred to Magistrate Judge Omar J. Aboulhosn, who recommended dismissal of the § 2241 petition and removal of the matter from the docket. Neither party filed objections within the applicable seventeen-day period. The district court adopted the findings and recommendation, dismissed the petition, removed the case from the active docket, 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 DONALD H. DAMPIER, JR., Plaintiff, v. CIVIL ACTION NO. 1:23-00592 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 29, 2024, in which he recommended that the district court 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 DISMISSES 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 March, 2026. ENTER: David A. Faber Senior United States District Judge

