

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
WEST VIRGINIA

Martinez-Turcio v. Rokosky

Civil Action No. 1:23-00593 (S.D. W. Va. Mar. 20, 2026) · No. 1:23-00593 · Decided March 20, 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 denied as moot the plaintiff’s 28 U.S.C. § 2241 petition, dismissed the civil action, removed it 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 20, 2026
DOCKET	1:23-00593
DISPOSITION	dismissed
PROCEDURAL POSTURE	The action was referred to a magistrate judge under 28 U.S.C. § 636(b)(1)(B). After the magistrate judge recommended denying the § 2241 petition as moot and dismissing the action, neither party filed objections. The district court adopted the Findings and Recommendation, denied the petition as moot, dismissed the action, and denied a certificate of appealability.
STANDARD OF REVIEW	Absent timely objections to a magistrate judge's findings and recommendation, a party waives the right to de novo review. A certificate of appealability requires a substantial showing of the denial of a constitutional right; for a procedural ruling, reasonable jurists must find the ruling debatable.
PRECEDENTIAL VALUE	unpublished and nonprecedential

TOPICS

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

PRACTICE AREAS

federal habeas corpus

civil procedure

post-conviction relief

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 petition under 28 U.S.C. § 2241 should be denied as moot and the civil action dismissed.
3. Whether to issue a certificate of appealability.

HOLDINGS

1. A party that fails to file timely objections waives the right to de novo review by the district court.
2. The plaintiff's petition under 28 U.S.C. § 2241 was denied as moot, and the civil action was dismissed.
3. A certificate of appealability was denied because the governing standard was not satisfied.

FACTUAL BACKGROUND

The opinion contains no substantive factual discussion concerning the underlying habeas claim. The magistrate judge recommended that the plaintiff's § 2241 petition be denied as moot, and the parties filed no objections to that recommendation.

PROCEDURAL HISTORY

Magistrate Judge Dwane L. Tinsley issued Findings and Recommendation on May 22, 2025, recommending that the court deny as moot plaintiff's petition under 28 U.S.C. § 2241 and dismiss the civil action. The parties did not object within the applicable seventeen-day period. The district court adopted the Findings and Recommendation, dismissed the action, 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 JAVIER MARTINEZ-TURCIO, Plaintiff, v. CIVIL ACTION NO.

1:23-00593 WARDEN ROKOSKY, Defendant. MEMORANDUM OPINION AND ORDER By Standing Order, this action was referred to United States Magistrate Judge Dwane L. Tinsley for submission of findings and recommendations regarding disposition pursuant to 28 U.S.C. § 636(b)(1)(B).

Magistrate Judge Tinsley submitted to the court his Findings and Recommendation (“PF&R”) on May 22, 2025, in which he recommended that the district court deny as moot plaintiff’s petition under 28 U.S.C. § 2241, dismiss this civil action, 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 Tinsley’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 Tinsley, the court adopts the findings and recommendations contained therein.

Accordingly, the court hereby DENIES as moot plaintiff’s petition under 28 U.S.C. § 2241, DISMISSES this civil action, 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 20th day of March, 2026. ENTER: David A. Faber Senior United States District Judge