

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

SUSAN MAUDE BUCHSER,

Plaintiff,

v.

CIVIL NO. 1:22-CV-110
(KLEEH)

MAC WARNER, West Virginia
Secretary of State, and
ELECTION DIVISION,

Defendants.

ORDER ADOPTING OMNIBUS AND ORIGINAL REPORT AND RECOMMENDATION
[ECF NOS. 34, 15] AND DISMISSING ACTION

On October 28, 2022, the pro se Plaintiff, Susan Maude Buchser ("Plaintiff"), filed a Complaint against the Defendants, West Virginia Secretary of State Mac Warner and the Election Division ("Defendants"). Pursuant to 28 U.S.C. § 636 and the local rules, the Court referred the action to United States Magistrate Judge Michael J. Aloï (the "Magistrate Judge") for initial review. On December 19, 2022, the Magistrate Judge entered a Report and Recommendation ("Original R&R") recommending dismissal of the action without prejudice. On March 8, 2023, the Magistrate Judge entered an Omnibus Report and Recommendation ("Omnibus R&R") recommending that the action be dismissed without prejudice for the same, along with additional, reasons.

The Omnibus R&R informed the parties that they had "fourteen (14) days (filing of objections) and then three days

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(mailing/service) from the date of the filing” of the Omnibus R&R to file “specific written objections identifying the portions of the Report and Recommendation to which objection is made, and the basis for such objection.” It further warned them that the “[f]ailure to timely file written objections . . . shall constitute a waiver of de novo review by the District Court and a waiver of appellate review by the Circuit Court of Appeals.” Plaintiff accepted service of the Omnibus R&R on March 13, 2023. To date, no objections have been filed.

When reviewing a magistrate judge’s R&R, the Court must review de novo only the portions to which an objection has been timely made. 28 U.S.C. § 636(b)(1)(C). Otherwise, “the Court may adopt, without explanation, any of the magistrate judge’s recommendations” to which there are no objections. Dellarciprete v. Gutierrez, 479 F. Supp. 2d 600, 603-04 (N.D.W. Va. 2007) (citing Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983)). Courts will uphold portions of a recommendation to which no objection has been made unless they are clearly erroneous. See Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

Because no party has objected, the Court is under no obligation to conduct a de novo review. Accordingly, the Court reviewed the Omnibus R&R for clear error. Upon careful review, and finding no clear error, the Court **ADOPTS** the Omnibus R&R [ECF

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No. 34] and the Original R&R [ECF No. 15]. The Court hereby **ORDERS** as follows:

- The Omnibus R&R is **ADOPTED** [ECF No. 34];
- The Motion to Amend the "Relief" Part of the Motion to Amend is **DENIED** [ECF No. 33];
- The Motion to Dismiss the Amended Complaint is **DENIED** as unripe [ECF No. 28];
- Plaintiff's Motion for Summary Judgment is **DENIED** [ECF No. 27];
- Plaintiff's Motion to Amend the Complaint is **DENIED** [ECF No. 20];
- The Original R&R is **ADOPTED** [ECF No. 15];
- The Motion to Dismiss the Complaint is **GRANTED** [ECF No. 11]; and
- This matter is **DISMISSED WITHOUT PREJUDICE** and **STRICKEN** from the Court's active docket.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to counsel of record via email and the pro se Plaintiff via certified mail, return receipt requested, at the last known address as shown on the docket.

DATED: June 1, 2023



THOMAS S. KLEEH, CHIEF JUDGE
NORTHERN DISTRICT OF WEST VIRGINIA