

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

KENNETH RAY SANDERS,

Petitioner,

v.

**Civil Action No. 3:07cv106
(Judge Bailey)**

**JOYCE FRANCIS, UNITED STATES
PAROLE COMMISSION, FEDERAL
BUREAU OF PRISONS, D.C. DEPT.
OF CORRECTIONS,**

Respondents.

OPINION/REPORT AND RECOMMENDATION

The petitioner initiated this § 2241 habeas action on August 14, 2007. Although petitioner sought permission to proceed as a pauper, the petitioner failed to provide the court with the appropriate financial forms for making such a determination. Therefore, on August 14, 2007, the Clerk sent the petitioner a deficiency notice advising him that he had 30 days to file a Prisoner Trust Account Report (“PTAR”). The record shows that the petitioner filed a PTAR on August 29, 2007. However, because the petitioner’s PTAR did not contain copies of the ledger sheets for his account, on September 6, 2007, the petitioner was sent a second deficiency. Said notice advised the petitioner that he must file the missing forms within 20 days or risk the dismissal of his case.

A review of the file as of this date shows that the petitioner has not filed the missing ledger sheets, requested additional time to do so, nor otherwise explained the reasons for non-compliance. Therefore, pursuant to Rule 41(b) of the Federal Rules of Civil Procedure, it is the undersigned’s recommendation that the petition be **DISMISSED without prejudice** for the failure to prosecute.

Within ten (10) days after being served with a copy of this Opinion/Report and Recommendation, any party may file with the Clerk of the Court, written objections identifying the portions of the Recommendation to which objections are made, and the basis for such objections. A copy of such objections shall also be submitted to the Honorable John Preston Bailey, United States District Judge. Failure to timely file objections to the Recommendation set forth above will result in waiver of the right to appeal from a judgment of this Court based upon such Recommendation. 28 U.S.C. § 636(b)(1); Thomas v. Arn, 474 U.S. 140 (1985); Wright v. Collins, 766 F.2d 841 (4th Cir. 1985); United States v. Schronce, 727 F.2d 91 (4th Cir. 1984), cert. denied, 467 U.S. 1208 (1984).

The Clerk is directed to send a copy of this Opinion/Report and Recommendation to the *pro se* petitioner by certified mail, return receipt requested, to his last known address as shown on the docket. The Clerk is further directed to provide copies of this Opinion/Report and Recommendation to all counsel of record, as provided in the Administrative Procedures for Electronic Case Filing in the United States District Court for the Northern District of West Virginia.

DATED: October 18, 2007.

/s/ *John S. Kaull*
JOHN S. KAULL
UNITED STATES MAGISTRATE JUDGE