

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

**HUNTINGTON DIVISION**

BARRY L. JAMES,

Plaintiff,

v.

CIVIL ACTION NO. 3;12-3379

CITY OF HUNTINGTON;  
OFFICER J. CLEMINS; CABELL  
COUNTY; BRACHT PEOPLES, et al.,

Defendants.

**MEMORANDUM OPINION AND ORDER**

This action was referred to the Honorable Cheryl A. Eifert, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636(b)(1)(B). The Magistrate Judge has submitted findings of fact and recommended that the Court deny Plaintiff's application to proceed in forma pauperis (ECF No. 2), dismiss the complaint, without prejudice (ECF No. 1), and remove this matter from the docket of the Court. Neither party has filed objections to the Magistrate Judge's findings and recommendations.

Accordingly, the Court accepts and incorporates herein the findings and recommendation of the Magistrate Judge and **DENIES** Plaintiff's application to proceed in forma pauperis (ECF No. 2), **DISMISSES** the complaint, **without prejudice** (ECF No. 1), and removes this matter from the docket of the Court, consistent with the findings and recommendations.

The Court **DIRECTS** the Clerk to forward copies of this written opinion and order to all counsel of record, and any unrepresented parties.

ENTER:        October 3, 2013

  
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ROBERT C. CHAMBERS, CHIEF JUDGE