

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

ROBERT WILLIAM PETTY,

Petitioner,

v.

Civil Action No. 2:09cv100

JAMES CROSS,Warden,

Respondent.

ORDER

It will be recalled that on February 26, 2010, Magistrate Judge David J. Joel filed his Report and Recommendation, wherein the parties were directed, in accordance with 28 U.S.C. § 636(b)(1), to file with the Clerk of Court any written objections within fourteen (14) days after being served with a copy of the Report and Recommendation. Petitioner filed his objections on March 9, 2010.

Upon examination of the report from the Magistrate Judge, it appears to the Court that the issues raised by the Petitioner in his Petition for Writ of Habeas Corpus, filed pursuant §2241, were thoroughly considered by Magistrate Judge Joel in his Report and Recommendation. Upon review of the Petitioner's objections, the Court finds that the Petitioner has not raised any issues that were not already throughly considered and addressed by the Magistrate Judge in his Report and Recommendation. Moreover, the Court, upon an independent de novo consideration of all matters now before it, is of the opinion that the Report and Recommendation accurately reflects the law applicable to the facts and circumstances before the Court in this action. Therefore, it is

ORDERED that Magistrate Judge Joel's Report and Recommendation be, and the same hereby is, accepted in whole and that this civil action be disposed of in accordance with the recommendation of the Magistrate Judge. Accordingly, it is

ORDERED that the Respondent's Motion to Dismiss or in the Alternative, Motion for Summary Judgment (Docket No. 22) shall be, and the same hereby is, **GRANTED**. It is further

ORDERED that the Petitioner's §2241 habeas corpus petition and amended petition shall be, and the same hereby are, **DENIED**. It is further

ORDERED that Petitioner's Motion to Alter Judgment (Docket No. 39) shall be, and the same hereby is, **DENIED**. It is further

ORDERED that the above-styled action shall be **DISMISSED with prejudice** and **STRICKEN** from the docket of this Court. It is further

ORDERED that the Clerk shall enter judgment for the Respondent. It is further

ORDERED that, if a party should desire to appeal the decision of this Court, written notice of appeal must be received by the Clerk of this Court within thirty (30) days from the date of the entry of the Judgment Order, pursuant to Rule 4 of the Federal Rules of Appellate Procedure. The \$5.00 filing fee for the notice of appeal and the \$450.00 docketing fee should also be submitted with the notice of appeal. In the alternative, at the time the notice of appeal is submitted, Petitioner may, in accordance with the provisions of Rule 24(a) of the Federal Rules of Appellate Procedure, seek leave to proceed in forma pauperis from the United States Court of Appeals for the Fourth Circuit.

ENTER: April 6 , 2010

/s/ Robert E. Maxwell
United States District Judge