

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

CHARLESTON DIVISION

ROBERT JOSEPH BLAKE,

Plaintiff,

v.

CIVIL ACTION NO. 2:10-cv-01089

REV. WILLIAM ALLEN, et al.,

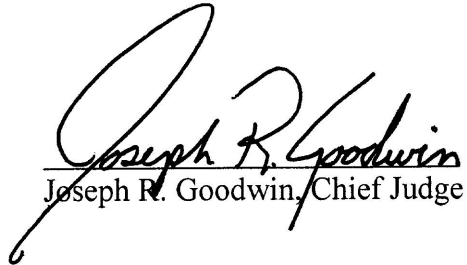
Defendants.

MEMORANDUM OPINION AND ORDER

On September 29, 2010, the plaintiff appeared *pro se* before the United States Magistrate Judge to whom this matter is referred and requested that this matter be voluntarily dismissed. On September 30, 2010, the Magistrate Judge entered an Order [Docket 9] dismissing the action with prejudice. The plaintiff has now filed an Amended Complaint [Docket 12] naming the same defendants and asserting the same claims as the original Complaint. Where the plaintiff seeks to proceed *in forma pauperis*, as is the case here, the court shall dismiss the case at any time if the action is “frivolous or malicious” or “fails to state a claim upon which relief may be granted.” 28 U.S.C. § 1915(e)(2). The plaintiff’s Amended Complaint is clearly barred by *res judicata* because his original Complaint, arising out of the same events and naming the same parties as defendants, was dismissed with prejudice. See *Cieszkowska v. Gray Line N.Y.*, 295 F.3d 204, 206 (2d Cir. 2002). Accordingly, the court **DISMISSES** the Amended Complaint with prejudice pursuant to § 1915(e)(2) because it fails to state a claim upon which relief may be granted.

The court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: November 3, 2010


Joseph R. Goodwin, Chief Judge