

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA

AT CHARLESTON

JEROME T. PRYOR,

Plaintiff,

v.

Civil Action No. 2:10-1146

THE STATE OF WEST VIRGINIA and
MARK PLANTS, Prosecuting Attorney,

Defendants.

MEMORANDUM OPINION AND ORDER

This action was previously referred to Mary E. Stanley, United States Magistrate Judge, who has submitted her Proposed Findings and Recommendation ("PF&R") pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B).

The court has reviewed the PF&R entered on December 17, 2010. The magistrate judge recommends dismissal of plaintiff's complaint for failure to state a claim upon which relief can be granted. The magistrate judge further recommends that plaintiff's Application to Proceed Without Prepayment of Fees be

denied. The plaintiff has not objected to the PF&R.¹ The court concludes the recommended disposition is correct.

Based upon the foregoing, it is, accordingly, ORDERED as follows:

1. That the PF&R be, and it hereby is, adopted and incorporated herein;
2. That plaintiff's Application to Proceed Without Prepayment of Fees be, and it hereby is, denied; and
3. That this action be, and it hereby is, dismissed without prejudice and stricken from the docket.

The Clerk is directed to forward copies of this written opinion and order to plaintiff, all counsel of record, and the magistrate judge.

DATED: February 3, 2011



John T. Copenhaver, Jr.
United States District Judge

¹The PF&R was returned as undeliverable on December 27, 2010. No forwarding address was indicated. Plaintiff is not found in the database for the West Virginia Regional Jail and Correctional Facility Authority. Despite the passage of a significant period of time, he has also not attempted to notify the court of his new address. In the event that a forwarding address has since been provided to plaintiff's former place of incarceration, the court will direct that a copy of this memorandum opinion and order and the accompanying Judgment be mailed to plaintiff's last known address.