

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

LOWELL M. VARNEY,

Plaintiff,

v.

Civil Action No. 2:12-07171

UNITED STATES and
JASON D. HARWOOD,
Ninth Circuit Family Court Judge;
in both capacities,
individually and officially,

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 pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B).

The court has reviewed the Proposed Findings and Recommendation entered by the magistrate judge on November 19, 2012. The magistrate judge recommends dismissing the plaintiff's complaint, having determined, inter alia, as follows, namely, that the court lacks subject-matter jurisdiction, principles of comity and federalism require the court abstain from exercising jurisdiction, the defendants are protected by various immunities, and the plaintiff fails to

state a claim upon which relief can be granted. Consequently, the magistrate judge also recommends that the plaintiff's Application to Proceed Without Prepayment of Fees be denied.

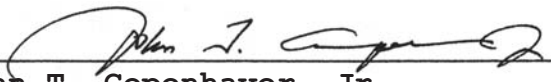
The plaintiff has not objected to the Proposed Findings and Recommendation. The court concludes the recommended disposition is correct.

Accordingly, it is ORDERED that:

1. The Proposed Findings and Recommendation are adopted by the court;
2. Plaintiff's Application to Proceed Without Prepayment of Fees is denied; and
3. This action be, and it hereby is, dismissed with prejudice.

The Clerk is directed to forward copies of this written opinion and order to the pro se plaintiff, all counsel of record, and the United States Magistrate Judge.

DATED: January 3, 2013



John T. Copenhaver, Jr.
United States District Judge