

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

JUSTIN MARCUM,

Plaintiff,

v.

Civil Action No. 2:13-22424

JIM RUBENSTEIN, Commissioner, West
Virginia Division of Corrections,
DAVID BALLARD, Warden, Mount Olive
Correctional Complex, PAUL PARRY,
Associate Warden of Security,
CHRISTOPHER BLAKE, Principal of
Education, RON SMITH, ABE Teacher,
and CAPT. WILLIAMS,

Defendants.

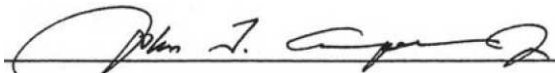
MEMORANDUM OPINION AND ORDER

The court having received the proposed findings and recommendation of the United States Magistrate Judge filed on December 29, 2015, pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B); and having reviewed the record in this proceeding; and there being no objections filed by any party to the proposed findings and recommendation; and it appearing proper so to do, it is ORDERED that the findings and conclusions made in the proposed findings and recommendation of the magistrate judge be, and they hereby are, adopted by the court.

The court, accordingly, finds (1) that the plaintiff's complaint does not allege specific conduct by defendants that would rise to the level of deliberate indifference or cruel and unusual punishment under the Eighth Amendment, (2) that the plaintiff's complaint fails to state a facially plausible due process claim against the defendants, and (3) that the plaintiff's requests for declaratory and injunctive relief made in the complaint must be denied as moot. It is, therefore, ORDERED that the plaintiff's complaint be, and it hereby is, dismissed under 28 U.S.C. § 1915A. It is further ORDERED that the plaintiff's Application to Proceed Without Prepayment of Fees and Costs be, and it hereby is, denied.

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

DATED: June 15, 2016



John T. Copenhaver, Jr.
United States District Judge