

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

JORDAN L. RAUCH,

Plaintiff,

v.

Civil Action No. 2:20-cv-00124

WEST VIRGINIA DEPARTMENT
OF CORRECTIONS AND REHABILITATION;
and BETSY JIVIDEN,
Commissioner of Corrections,

Defendants.

MEMORANDUM OPINION AND ORDER

The court having received the Proposed Findings and Recommendation of United States Magistrate Judge Dwane L. Tinsley, entered on September 11, 2020 (ECF No. 6); and the magistrate judge having recommended that the court dismiss the action pursuant to 28 U.S.C. §§ 1915(e)(2)(B) and 1915A as well as Federal Rule of Civil Procedure 12(h)(3) based on the court's lack of jurisdiction to grant mandamus relief against the defendants; and no objection having been filed to the Proposed Findings and Recommendation, it is ORDERED that the findings made in the Proposed Findings and Recommendation of the magistrate judge (ECF No. 6) be, and they hereby are, adopted by the court and incorporated herein.

Accordingly, it is further ORDERED that:

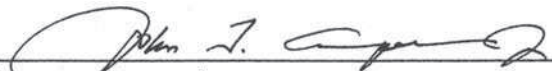
1. This action be, and it hereby is, dismissed pursuant to 28 U.S.C. §§ 1915(e)(2)(B)(ii) and 1915A as well as Federal Rule of Civil Procedure 12(h)(3).

2. The plaintiff's application to proceed without prepayment of fees and costs (ECF No. 1) be, and it hereby is, DENIED as moot. The court waives payment of the applicable filing fee.

3. The Clerk is directed to remove this action from the court's docket.

The Clerk is directed to forward copies of this memorandum opinion and order to all counsel of record, any unrepresented party, and the United States Magistrate Judge.

ENTER: December 14, 2020



John T. Copenhaver, Jr.
Senior United States District Judge