

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

TIMOTHY R. SUTHERLAND,

Plaintiff,

v.

CIVIL ACTION NO. 3:06-1042

LT. GREEN, SGT. FLEMMINGS,
CPL.. GREER,

Defendants.


MEMORANDUM OPINION AND ORDER

This action was referred to the Honorable R. Clarke VanDervort, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636(b)(1)(B). The Magistrate Judge has submitted findings of fact and recommended that the Court dismiss Plaintiff's Complaint (Doc. #2), deny Plaintiff's Application to Proceed in Forma Pauperis and Affidavit (Doc. #1), and remove this matter from the Court's docket. No party has filed objections to the Magistrate Judge's findings and recommendation.

Accordingly, the Court accepts and incorporates herein the findings and recommendation of the Magistrate Judge and **DISMISSES** Plaintiff's Complaint (Doc. #2), **DENIES** Plaintiff's Application to Proceed in Forma Pauperis and Affidavit (Doc. #1), and **REMOVES** this matter from the Court's docket, consistent with the findings and recommendation.

The Court **DIRECTS** the Clerk to forward copies of this written opinion and order to all counsel of record, and any unrepresented parties.

ENTER: September 20, 2010



ROBERT C. CHAMBERS
UNITED STATES DISTRICT JUDGE