

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

HUNTINGTON DIVISION

ROBERT PEREZ,

Plaintiff,

v.

CIVIL ACTION NO. 3:08-1252

CORPORAL TUSING,
of the Putnam County Sheriff's Dept.,

Defendant.

MEMORANDUM OPINION AND ORDER

This action was referred to the Honorable Maurice G. Taylor, Jr., 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 Plaintiff's application to proceed in forma pauperis be granted, that his letter form motion filed November 3, 2008, his amended emergency motion filed November 19, 2008, and his letter form motion filed November 25, 2008, be denied, and that his petition and this action be dismissed. Neither 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 **GRANTS** Plaintiff's application to proceed in forma pauperis, **DENIES** his letter form motion filed November 3, 2008, his amended emergency motion filed November 19, 2008, and his letter form motion filed November 25, 2008, and **DISMISSES** his petition and this action, 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: April 23, 2010

A handwritten signature in black ink, appearing to read 'Robert C. Chambers', written over a horizontal line.

ROBERT C. CHAMBERS
UNITED STATES DISTRICT JUDGE