

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

**HUNTINGTON DIVISION**

SHAWN MICHAEL RACKLEY,

Plaintiff,

v.

CIVIL ACTION NO. 3:17-4209

WEST VIRGINIA REGIONAL JAIL AND  
CORRECTIONAL FACILITY AUTHORITY;  
LIEUTENANT MORRISON;  
C. O. SPAULDING;  
C. O. AKERS;  
C. O. STAPLETON; and  
C. O. THACKER,

Defendants.

**MEMORANDUM OPINION AND ORDER**

This action was referred to the Honorable Cheryl A. Eifert, 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 grant Plaintiff's oral request for a voluntary dismissal under Fed. R. Civ. P. 41(a)(2); deny Defendants' Motion to Dismiss (ECF No. 24), as moot; dismiss the complaint pursuant to Fed. R. Civ. P. 41(a)(2); and remove this civil action from the docket of the Court. No party has filed objections to the Magistrate Judge's findings and recommendations.

Accordingly, the Court accepts and incorporates herein the findings and recommendation of the Magistrate Judge and **GRANTS** Plaintiff's oral request for a voluntary dismissal under Fed. R. Civ. P. 41(a)(2); **DENIES** Defendants' Motion to Dismiss (ECF No. 24), **as moot**;

**DISMISSES** the complaint pursuant to Fed. R. Civ. P. 41(a)(2); and **REMOVES** this civil action from the docket of the Court, consistent with the findings and recommendations.

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 6, 2018

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

ROBERT C. CHAMBERS  
UNITED STATES DISTRICT JUDGE