

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

**PARKERSBURG DIVISION**

WILLIAM CUNNINGHAM,

Plaintiff,

v.

CIVIL ACTION NO. 6:09-cv-01553

STATE OF WEST VIRGINIA, et al.,

Defendants.

**MEMORANDUM OPINION & ORDER**

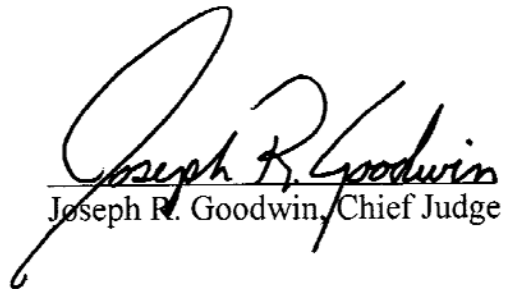
The plaintiff brings an amended complaint against the United States, the State of West Virginia, and Myspace, Inc., seeking a declaratory judgment and, potentially, injunctive relief [Dockets 2 & 5]. The plaintiff asserts that the defendants discriminate against sex offenders. The Honorable Mary E. Stanley, United States Magistrate Judge, has submitted to this court proposed findings of fact and recommendation (“PF&R”) for disposition [Docket 6], pursuant to 28 U.S.C. § 636(b)(1)(B). The Magistrate Judge proposes that this court find that the plaintiff’s complaint, as amended, fails to state a claim upon which relief may be granted. She recommends that this court dismiss the plaintiff’s complaint, as amended, pursuant to 28 U.S.C. § 1915(e)(2)(B) and deny the plaintiff’s Application to Proceed Without Prepayment of Fees and Costs [Docket 1].

The plaintiff has failed to submit timely objections to the Magistrate Judge’s PF&R. The failure to object to a magistrate judge’s report may be deemed a waiver of appeal of the substance of the report and the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation. *See Camby v. Davis*, 718 F.2d 198, 200 (4th Cir. 1983); *Campbell v. United States D. Ct. N.D. Cal.*, 501 F.2d 196, 206 (9th Cir. 1974). The court has

reviewed the Magistrate Judge's findings of fact and recommendation and finds no clear error on the face of the record. Therefore, the court accepts and incorporates herein the findings and recommendation of the Magistrate Judge and orders judgment consistent with the findings and recommendation. The court **DENIES** the plaintiff's Application to Proceed Without Prepayment of Fees and Costs [Docket 1], **DISMISSES** the plaintiff's complaint, as amended [Dockets 2 & 5], and **DISMISSES** this action from the docket.

The court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER:            January 26, 2010

  
Joseph R. Goodwin, Chief Judge