

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

PARKERSBURG DIVISION

WILLIAM CUNNINGHAM,

Petitioner,

v.

CIVIL ACTION NO. 6:10-cv-00054

COL. TIMOTHY PACK,

Respondent.

MEMORANDUM OPINION & ORDER

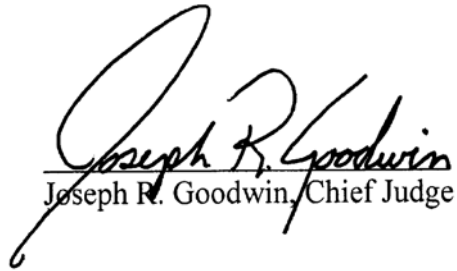
On January 20, 2010, the petitioner filed a Petition for Declaratory Judgment [Docket 1], seeking a declaration that the West Virginia Sex Offender Registration Act, W. Va. Code Section 15-12-1 *et seq.*, violates the Ex Post Facto Clause of the United States Constitution and the West Virginia Constitution. Pending before the court is the petitioner's Application to Proceed *in forma pauperis* [Docket 2]. Pursuant to 28 U.S.C. Section 636(b)(1)(B), this matter was referred to the Honorable Mary E. Stanley, United States Magistrate Judge, for submission of proposed findings and a recommendation for disposition. The Magistrate Judge proposes that this court find that the plaintiff's Petition for Declaratory Judgment fails to state a claim upon which relief may be granted. She recommends that this court dismiss the Petition with prejudice under 28 U.S.C. § 1915(e)(2)(B) and deny the plaintiff's Application to Proceed *in forma pauperis*.

The petitioner timely filed written objections to the Magistrate Judge's findings of fact and recommendation. Having reviewed the petitioner's objections *de novo*, the court **FINDS** that they ultimately are without merit. The court agrees with and adopts the thorough analysis of the

Magistrate Judge. The court **DENIES** the petitioner's Application to Proceed *in forma pauperis* [Docket 2] and **DISMISSES** the Petition [Docket 1] pursuant to 28 U.S.C. Section 1915(e)(2)(B).

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

ENTER: February 18, 2010


Joseph R. Goodwin, Chief Judge