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COURT OF COMMON PLEAS OF SCHUYLKILL COUNTY  
CIVIL DIVISION

TONY L. MUTSCHLER, : No. S-959-2014  
Petitioner :  
vs. :

SCI FRACKVILLE PA. :  
SUPERINTENDENT, MS. TRITT, :  
SECURITY CAPT. MR. DOWNS, :  
Respondents :

Petitioner - Pro se

ORDER OF COURT

DOLBIN, J.

AND NOW, this 29<sup>th</sup> day of May, 2014, upon consideration of the

Petitioner's Civil Action Writ of Mandamus and Petition to Proceed in Forma Pauperis, we find that the cause of action raised in the Action is frivolous for purposes of Pa.R.C.P. 240(j).<sup>1</sup> The Action is **DISMISSED**. The Petition to Proceed in Forma Pauperis is **DENIED** and **DISMISSED** as moot.

BY THE COURT:

Dolbin  
CYRUS PALMER DOLBIN, JUDGE

2014 MAY 29 10:55

PROTHONOTARY'S  
OFFICE  
SCHUYLKILL CITY PA  
17901

<sup>1</sup> Under Pa.R.C.P. No. 240(j), if a party files a petition for leave to proceed in forma pauperis simultaneously with the commencement of an action, the Common Pleas Court has the authority to dismiss the action if the allegation of poverty is untrue or the action is frivolous. According to the note to Pa.R.C.P. No. 240(j), an action is frivolous if it "lacks an arguable basis either in law or fact." Neitzke v. Williams, 490 U.S. 319 (1990). The Writ of Mandamus raises issues that are solely within the discretion of the prison. Prison condition litigation is not cognizable in this Court until an inmate exhausts his administrative remedies. As such, this action is deemed frivolous. Watson v. Pennsylvania Dept. of Corrections, 990 A.2d 164 (Pa. Cmwlth. 2010).