

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
NORTHERN DIVISION

DANIEL CINCOSKI,  
ADC # 143538

Plaintiff,

vs.

RICHARD, Dr., Grimes Unit,  
Arkansas Department of Correction *et al.*

Defendants.

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No. 1:09-cv-00038-SWW-JJV

**ORDER**

The Court has reviewed the Proposed Findings and Recommended Disposition submitted by United States Magistrate Judge Joe J. Volpe. and Plaintiff’s objections. After carefully considering the objections and making a *de novo* review of the record, the Court concludes that the Proposed Findings and Recommended Disposition should be, and hereby are, approved and adopted in their entirety as this Court's findings in all respects.<sup>1</sup>

IT IS THEREFORE ORDERED that:

1. Plaintiff’s Complaint is DISMISSED without prejudice;
2. Defendants’ summary judgment motions (Doc. Nos. 82, 86) are dismissed as moot;
3. Dismissal of this action counts as a “strike” for purposes of 28 U.S.C. § 1915(g);

and

4. The Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an *in forma pauperis*

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<sup>1</sup> By Order dated September 16, 2010 [doc.#113], the Court *inter alia* denied plaintiff’s most recent motion for the appointment of counsel [doc.#111]. The Court denied that motion for the same reasons plaintiff’s previous motions were denied in Orders dated September 4, 2009 [doc.#13], December 21, 2009 [doc.#44], and June 25, 2010 [doc.#95]. In that last Order, plaintiff was instructed not to file any further requests for the appointment of counsel unless instructed to do so by the Court. Plaintiff was not so instructed.

appeal from this Order adopting the recommendations would not be taken in good faith.

DATED this 5<sup>th</sup> day of October 2010.

/s/Susan Webber Wright  
UNITED STATES DISTRICT JUDGE