

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

DAVID E. SCHEURICH
M53661

PLAINTIFF

v.

No. 1:17-cv-54-DPM

L. GARRIOTT, Corporal, Cleburne
County Detention Center

DEFENDANT

ORDER

On *de novo* review, the Court adopts the recommendation, *No. 4*, and overrules Scheurich's objections, *No. 5*. FED. R. CIV. P. 72(b)(3). Contrary to Scheurich's objections, *No. 5 at 9-11*, all three dismissals Magistrate Judge Kearney listed count as strikes. And a strike still counts even when there's a pending appeal. *Coleman v. Tollefson*, 135 S.Ct. 1759, 1761 (2015).

Nothing in Scheurich's objections shows he's in imminent danger of serious physical injury. 28 U.S.C. § 1915(g). His motion to proceed IFP, *No. 1*, is therefore denied. Scheurich's complaint will be dismissed without prejudice. If he wants to proceed with this case, then he must pay the \$400 filing and docketing fees and file a motion to reopen by 7 September 2017. An *in forma pauperis* appeal from this Order and accompanying Judgment would not be taken in good faith. 28 U.S.C. § 1915(a)(3).

So Ordered.

D.P. Marshall Jr.
D.P. Marshall Jr.
United States District Judge

3 August 2017