

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

**XAVIER REDUS
ADC # 108610**

PLAINTIFF

V.

NO. 2:09CV00033-JMM/BD

GREG HARMON, *et al.*

DEFENDANTS

ORDER

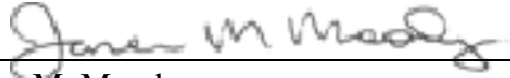
The Court has received the Recommended Disposition from Magistrate Judge Beth Deere. After careful review of the Recommended Disposition, the timely objections¹ received thereto, as well as a *de novo* review of the record, the Court concludes that the Recommended Disposition should be, and hereby is, approved and adopted as this Court's findings in all respects in its entirety.

Accordingly, Plaintiff's claims are DISMISSED with prejudice. This dismissal will count as a "strike" for purposes of 28 U.S.C. § 1915(g). The Court certifies that an *in forma pauperis* appeal taken from the order and judgment dismissing this action would

¹Plaintiff's objection is based partly on his assertion that the District Court of the Eastern District of Arkansas has held that the Arkansas Department of Correction's (ADC) five-photograph policy is unconstitutional and cites *Davis v. Norris*, 249 F.3d 800 (8th Cir. 2000) to support his assertion. The opinion relied upon by plaintiff was not the final opinion of that case, but rather, was an opinion affirming that Court's denial of defendants' motion for summary judgment prior to trial. In that case, the appellate court stated that a genuine issue of fact existed concerning whether the ADC policy was reasonably related to its interest in security. Upon remand and following a bench trial, United States Magistrate Judge Henry L. Jones, Jr., held that the five-photograph policy at issue did not violate the plaintiff's First Amendment right. See *Davis v. Norris*, 5:98CV00115, March 13, 2003 Memorandum and Order and Judgment. That decision was later affirmed on appeal. *Davis v. Norris*, 86 Fed. Appx. 220 (8th Cir. 2004).

be frivolous and not taken in good faith.

IT IS SO ORDERED, this 8 day of May, 2009.

A handwritten signature in cursive script, appearing to read "James M. Moody", written in dark ink.

James M. Moody
United States District Judge