

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

BRIAN KEITH BYRNE  
ADC # 134860

PLAINTIFF

V.

2:09-cv-00158-SWW-JJV

ARKANSAS DEPARTMENT OF CORRECTION;  
and HONEYCUTT, Inmate, East Arkansas Regional  
Unit, Arkansas Department of Correction

DEFENDANTS

**ORDER**

The Court has reviewed the Proposed Findings and Recommended Disposition submitted by United States Magistrate Judge Joe J. Volpe. No objections have been filed. After careful consideration, 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.

IT IS THEREFORE ORDERED that this action is DISMISSED with prejudice, and dismissal of this action shall count as a “strike” for purposes of 28 U.S.C. § 1915(g).<sup>1</sup> All pending motions are DENIED as moot.

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

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<sup>1</sup> Title 28 U.S.C. § 1915(g) provides that: “In no event shall a prisoner bring a civil action or appeal a judgment in a civil action under this section if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted . . . .

*pauperis* appeal from this Order and Judgment would not be taken in good faith.

DATED this 30<sup>th</sup> day of November, 2009.

/s/Susan Webber Wright  
UNITED STATES DISTRICT JUDGE