

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

**ALONZO GILLIAM, III,
ADC# 098194**

PLAINTIFF

v.

Case No. 2:16-cv-00073-KGB-JJV

**SECCER COLE,
Sergeant, East Arkansas
Regional Unit, ADC; et al.**

DEFENDANTS

ORDER

The Court has reviewed the Proposed Findings and Recommendations submitted by United States Magistrate Judge Joe J. Volpe and plaintiff Alonzo Gilliam, III's objections (Dkt. Nos. 5; 6). After carefully considering the Proposed Findings and Recommendations and Mr. Gilliam's objections, and making a *de novo* review of the record in this case, the Court concludes that the Proposed Findings and Recommendations should be, and hereby are, approved and adopted in their entirety as this Court's findings in all respects (Dkt. No. 5). Mr. Gilliam's request for a hearing, included within his objections, motion to appoint counsel, and motion for copies are denied (Dkt. Nos. 6; 7; 8).

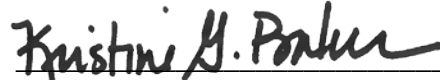
It is therefore ordered that:

1. Plaintiff's Complaint is dismissed without prejudice for failure to state a claim upon which relief may be granted (Dkt. No. 1).
2. Dismissal of this action does *not* count as a "strike" for purposes of 28 U.S.C. § 1915(g).¹

¹ 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

3. The Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an *in forma pauperis* appeal from this Order would not be taken in good faith.

So ordered this 1st day of December, 2016.



Kristine G. Baker
United States District Judge

a claim upon which relief may be granted” This Court adopts Judge Volpe’s recommendation that, upon the facts of this case, a strike not be assessed to Mr. Gilliam (Dkt. No. 5, at 5).