

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

BILLY MACK NICHOLS, JR.,  
ADC #92713

PLAINTIFF

v.

No. 2:16-cv-91-DPM

DRUMMOND, APN, East Arkansas Regional  
Unit, ADC; STIEVE, Doctor/Medical Director,  
EARU; BUTLER, Doctor, EARU; SIMMONS,  
APN, EARU; and ARKANSAS DEPARTMENT  
OF CORRECTION, Medical Department, EARU

DEFENDANTS

ORDER

1. The Court withdraws the reference.

2. Nichols moves to proceed *in forma pauperis*. No 1. But he's a three-striker. 28 U.S.C. § 1915(g). Before filing this lawsuit, he had at least four cases dismissed for failing to state a claim. *E.g.*, *Nichols v. Harrelson*, 4:99-cv-388-SWW; *Nichols v. Simpson*, 4:99-cv-743-GTE; *Nichols v. Sallings*, 4:99-cv-785-HW; *Nichols v. Harrelson*, 4:00-cv-106-JMM.

The Court has previously concluded that Nichols's foot-care concerns don't meet the imminent danger exception. *E.g.*, *Nichols v. Peppers-Davis*, 5:14-cv-448-BSM (No 129 & 137); *Nichols v. Blair*, 5:15-cv-249-KGB (No 6 & 18); *Nichols v. Jones*, 5:16-cv-28-DPM (No 19 & 35). Nothing in his new complaint changes that conclusion. Further, Nichols is receiving treatment for diabetes,

irregular blood pressure, and anemia. And though he disagrees with that treatment, it doesn't appear he's currently in imminent danger of serious physical injury. Nichols's motion to proceed *in forma pauperis*, No 1, is therefore denied. His complaint will be dismissed without prejudice.

3. Nichols's pending motions, No 3, 4 & 12, are denied as moot.

4. If Nichols wants to pursue this case, then he must pay \$400 (the filing and administrative fees) and file a motion to reopen this case by 5 August 2016.

5. An *in forma pauperis* appeal from this Order and accompanying Judgment will 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

7 July 2016