

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

ALVIN EARL DUDLEY

PLAINTIFF

V.

3:09CV00218 SWW

JEREMY BONDS, Detective,
Marked Tree Police Department; and
JERRY FOSTER, Detective,
Trumann Police Department

DEFENDANTS

ORDER OF DISMISSAL

Plaintiff, Alvin Earl Dudley, who is confined in the Poinsett County Detention Center, has filed a *pro se* § 1983 Complaint and an Amended Complaint alleging that Defendants Jeremy Bonds and Jerry Foster violated his constitutional rights when they arrested him, without reading him his *Miranda* rights. See docket entries #2 and #7.

It is well settled that “the reading of *Miranda* warnings is a procedural safeguard rather than a right arising out of the Fifth Amendment itself.” *Hannon v. Sanner*, 441 F.3d 635, 637 (8th Cir. 2006); *Warren v. City of Lincoln*, 864 F.2d 1436, 1442 (8th Cir. 1989). Thus, “the only remedy for an [alleged] *Miranda* violation is the exclusion from evidence of any compelled self-incrimination, [and] not a section 1983 action.” *Id.* Accordingly, Plaintiff has failed to state a viable § 1983 claim.

IT IS THEREFORE ORDERED THAT:

1. Pursuant to the screening function mandated by 28 U.S.C. § 1915A, this case is DISMISSED, WITH PREJUDICE, for failing to state a claim upon which relief may be granted.
2. Dismissal of this action constitutes a STRIKE, as defined by 28 U.S.C. § 1915(g).
3. The Court CERTIFIES, pursuant to 28 U.S.C. § 1915(a)(3), that an *in forma pauperis* appeal from this Order of Dismissal and the accompanying Judgment would not be taken in good

faith.

Dated this 14th day of January, 2010.

/s/Susan Webber Wright
UNITED STATES DISTRICT JUDGE