

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

HAROLD SHAWGNESSY SIMS
ADC #650028

PLAINTIFF

v.

No. 3:16-cv-16-DPM


KING, Commissary Manager

DEFENDANT

ORDER

On *de novo* review, the Court adopts the recommendation in part and declines it in part, *No 10*, and overrules Sims's objections, *No 11*. FED. R. CIV. P. 72(b)(3). Sims's complaint will be dismissed without prejudice for failure to state a claim. This dismissal, though, will not count as a "strike" within the meaning of 28 U.S.C. § 1915(g): though it does not pass muster under the Constitution, Sims's complaint (as supplemented by his objections) is in good faith. 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.
United State District Judge

16e March 2016