

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

**NATHANIEL L. FITZGERALD,
ADC # 84210**

PLAINTIFF

v.

CASE NO. 4:12CV00378 BSM/JJV

**TOM McHAN, Major,
Ouachita River Unit, ADC; et al.**

DEFENDANTS

ORDER

The proposed findings and recommended disposition submitted by United States Magistrate Judge Joe J. Volpe and the filed objections have been reviewed. After carefully considering these documents and making a *de novo* review of the record, it is concluded that the proposed findings and recommended disposition should be, and hereby are, approved and adopted in their entirety in all respects.

IT IS THEREFORE ORDERED that:

1. Plaintiff Nathaniel Fitzgerald's complaint be **DISMISSED** without prejudice pursuant to the three strikes rule set forth in 28 U.S.C. § 1915(g).
2. If Fitzgerald wishes to continue this case, he must submit within thirty (30) days of the entry of this order: (a) the statutory filing fee of \$350, in full, to the clerk, noting the case style and number; and (b) file a motion to reopen the case.
3. It is **CERTIFIED**, pursuant to 28 U.S.C. § 1915(a)(3), that an *in forma pauperis* appeal from this order and accompanying judgment would not be taken in good faith.

Dated this 31st day of July 2012.

Brian S. Miller

UNITED STATES DISTRICT JUDGE