

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

DALE EDWARD BYRD,
ADC # 136124

PLAINTIFF

v.

4:15CV00195-JM-JJV

SALINE COUNTY
DETENTION FACILITY; *et al.*

DEFENDANTS

ORDER

The Court has reviewed the Proposed Findings and Recommended Disposition submitted by United States Magistrate Judge Joe J. Volpe. After carefully considering the Plaintiff's amended complaint and making a *de novo* review of the record, the Court concludes that the Proposed Findings and Recommended Disposition should be, and hereby are, approved and adopted in their entirety as this Court's findings in all respects.

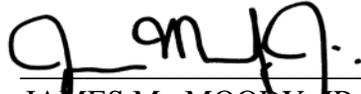
‘To prove actual injury, [a prisoner] must ‘demonstrate that a nonfrivolous legal claim had been frustrated or was being impeded.’” *White v. Kautzky*, 494 F.3d 677, 680 (8th Cir.2007) (quoting *Lewis v. Casey*, 518 U.S. 343, 353, 116 S.Ct. 2174, 135 L.Ed.2d 606 (1996)). Plaintiff claims that he was convicted of charges listed in his parole violation report because he had no law library access. (ECF No. 6). This allegation is speculative at best. Plaintiff does not demonstrate that he had a nonfrivolous legal claim to present. Therefore, the Court finds that Plaintiff's attempt to amend his complaint is futile.

IT IS, THEREFORE, ORDERED that:

1. Plaintiff's Complaint (Doc. No. 2) is DISMISSED without prejudice for failure to state a claim upon which relief may be granted.
2. Dismissal of this action counts as a “strike” for purposes of 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 would not be taken in good faith.

DATED this 28th day of April, 2015.

A handwritten signature in black ink, appearing to read "J. M. Moody, Jr.", written over a horizontal line.

JAMES M. MOODY, JR.
UNITED STATES DISTRICT JUDGE