

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

PHILLIP WILLYARD,  
ADC #152418

PLAINTIFF

V.

4:16CV00561-SWW-JTK

CAREY JAMES, et al.

DEFENDANTS

**ORDER**

The Court has received proposed findings and recommendations from United States Magistrate Judge Jerome T. Kearney. After a review of those proposed findings and recommendations, and the timely objections received thereto, as well as a de novo review of the record, the Court adopts them in their entirety. Accordingly,

IT IS, THEREFORE, ORDERED that:

1. Plaintiff's Motion to Amend (Doc. No. 21) is DENIED.
2. Defendant's Motion to Dismiss (Doc. NO. 15) is GRANTED.
3. Plaintiff's Complaint against Defendant is DISMISSED with prejudice, as frivolous and for failure to state a claim upon which relief may be granted.
4. Dismissal of this action constitutes a "strike" within the meaning of the Prison Litigation Reform Act (PLRA), 28 U.S.C. § 1915(g).<sup>1</sup>
5. The Court certifies that an in forma pauperis appeal from an Order and Judgment dismissing this action would not be taken in good faith, pursuant to 28 U.S.C. § 1915(a)(3).

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<sup>1</sup>The statute provides that a prisoner may not file an in forma pauperis civil rights action or appeal if the prisoner has, on three or more prior occasions, filed an action or appeal that was dismissed as frivolous, malicious or for failure to state a claim, unless the prisoner is under imminent danger of serious physical injury.

An appropriate Judgment shall accompany this Order.

IT IS SO ORDERED this 9<sup>th</sup> day of January, 2017.

/s/Susan Webber Wright  
UNITED STATES DISTRICT JUDGE