

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
PINE BLUFF DIVISION**

RICKEY BROOKS
ADC # 108335

PLAINTIFF

V.

5:09CV00017 JMM

LARRY NORRIS, Director, Arkansas Department of Correction; GRANT HARRIS, Warden, Varner Unit, Arkansas Department of Correction; MARSHALL D. REED, Warden, Ouachita Regional Unit; Arkansas Department of Correction; GAYLIN LAY, Warden, Cummins Unit, Arkansas Department of Correction; and COMELLA GARRETT, Supervisor, Varner Unit, Arkansas Department of Correction

DEFENDANTS

ORDER

The Court has reviewed the Proposed Findings and Recommended Disposition submitted by United States Magistrate Judge H. David Young and Plaintiff's objections. After carefully considering Plaintiff's objections and making a *de novo* review of the record in this case, 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.

Plaintiff contends in his objections that he is confused about his cases which were filed in the federal district courts. Plaintiff filed two (2) separate complaints on January 14, 2009: (1) *Brooks v. Norris*, Case Number 5:09CV00016 JLH which was assigned to United States District Judge J. Leon Holmes and referred to United States Magistrate Judge Henry L. Jones, Jr.; and (2)

Brooks v. Norris, Case Number 5:09CV00017 JMM which was assigned to United States District Judge James M. Moody and referred to United States Magistrate Judge H. David Young.

In 5:09CV00016 JLH, Plaintiff filed an application to proceed *in forma pauperis* on January 14, 2009 at the same time he filed his complaints. Plaintiff did not, however, file an *in forma pauperis* application in Case Number 5:09CV00017 JMM. Therefore, Judge Young directed Plaintiff to either pay the filing fee or file a properly completed *in forma pauperis* application within thirty (30) days. This Order was filed on January 26, 2009. Plaintiff did not respond to the Order. Instead, on January 27, 2009, Plaintiff filed a motion for jury trial. On March 17, 2009, Judge Young issued his Proposed Findings and Recommendations that Plaintiff's Complaint in Case Number 5:09CV00016 JMM be dismissed for failure to comply with the Court's January 26, 2009 Order.

Plaintiff's Case Number 5:09CV00016 JLH was dismissed by Judge Holmes on February 10, 2009 and Plaintiff has filed a Notice of Appeal in that case.

IT IS THEREFORE ORDERED that:

1. This action is DISMISSED WITHOUT PREJUDICE for failure to comply with Local Rule 5.5(c)(2), and all pending Motions are DENIED AS MOOT; and
2. The Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an *in forma pauperis* appeal from any Order adopting these recommendations would not be taken in good faith.

DATED this 6th day of April, 2009.


UNITED STATES DISTRICT JUDGE