

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

SHANNON BOYLE  
ADC # 116113

PLAINTIFF

V.

5:09-CV-00279-JMM-JJV

GAYLON LAY, Warden, Cummins Unit,  
Arkansas Department of Correction; VERNON  
ROBERTSON, Major, Cummins Unit,  
Arkansas Department of Correction; DONALD TATE,  
Captain, Cummins Unit, Arkansas Department  
of Correction; PERCY ARNOLD, Lt., Cummins  
Unit, Arkansas Department of Correction; and  
MICHAEL MOSELEY, Cummins Unit,  
Arkansas Department of Correction

DEFENDANTS

**ORDER**

The Court has reviewed the Proposed Findings and Recommended Disposition submitted by United States Magistrate Judge Joe J. Volpe and the objections of the parties. After carefully considering the 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.

IT IS THEREFORE ORDERED that this action is DISMISSED with prejudice, and dismissal of this action shall count as a “strike” for purposes of 28 U.S.C. § 1915(g).<sup>1</sup> All pending

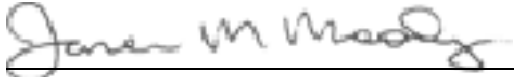
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<sup>1</sup> Title 28 U.S.C. § 1915(g) provides that: “In no event shall a prisoner bring a civil action or appeal a judgment in a civil action under this section if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or

motions are DENIED as moot.

The Court FURTHER CERTIFIES, pursuant to 28 U.S.C. § 1915(a)(3), that an *in forma pauperis* appeal from this Order and Judgment would not be taken in good faith.

DATED this 10<sup>th</sup> day of December, 2009.

  
UNITED STATES DISTRICT JUDGE

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fails to state a claim upon which relief may be granted . . . .