

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

**FREDERICK PENNINGTON,
ADC #71305**

PLAINTIFF

V.

CASE NO. 5:09CV00334 BSM/BD

ROLAND ANDERSON, et al.

DEFENDANTS

RECOMMENDED DISPOSITION

I. Procedure for Filing Objections

The following Recommended Disposition has been sent to United States District Judge Brian S. Miller. Any party may serve and file written objections to this recommendation. Objections should be specific and should include the factual or legal basis for the objection. If the objection is to a factual finding, specifically identify that finding and the evidence that supports your objection. An original and one copy of your objections must be received in the office of the United States District Court Clerk no later than fourteen (14) days from the date you receive the Recommended Disposition. A copy will be furnished to the opposing party. Failure to file timely objections may result in waiver of the right to appeal questions of fact.

Mail your objections and "Statement of Necessity" to:

Clerk, United States District Court
Eastern District of Arkansas
600 West Capitol Avenue, Suite A149
Little Rock, AR 72201-3325

II. Background

On October 27, 2009, Plaintiff filed this 42 U.S.C. § 1983 action (docket entry #2) pro se, along with a motion for leave to proceed *in forma pauperis* (#1). On October 30, 2009, this Court denied Plaintiff's motion for leave to proceed *in forma pauperis* under the "three strikes" provision of the Prison Litigation Reform Act, 28 U.S.C. § 1915(g). The Court ordered Plaintiff to submit the statutory filing fee within thirty (30) days from the entry of the October 30, 2009 Order (#3).

Plaintiff failed to submit the statutory filing fee, and the time to do so has passed. Accordingly, Plaintiff's Complaint (#2) should be dismissed without prejudice under Local Rule 5.5(c)(2).

III. Conclusion

The Court recommends that the District Court dismiss the Complaint (#2) without prejudice, under Local Rule 5.5(c)(2), for failure to comply with the Court's Order of October 30, 2009 (#3).

DATED this 2nd day of December, 2009.



UNITED STATES MAGISTRATE JUDGE