

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

**RODNEY EUGENE WESTON
ADC # 132833**

PLAINTIFF

V.

CASE NO. 5:09CV00361-SWW-BD

RODNEY D. JONES, *et al.*

DEFENDANTS

RECOMMENDED DISPOSITION

I. Procedure for Filing Objections

The following Recommended Disposition has been sent to United States District Judge Susan Webber Wright. 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 November 13, 2009, Plaintiff brought this action pro se under 42 U.S.C. § 1983 (docket entry #2) and submitted a motion for leave to proceed *in forma pauperis* (#1). By Order (#3) of November 17, 2009, Plaintiff was informed that his *in forma pauperis* motion, although sufficient for state court proceedings, did not meet the federal statutory requirements set forth in 28 U.S.C. § 1915. Plaintiff was ordered to submit a proper application to proceed *in forma pauperis*, or pay the statutory filing fee of \$350.00, on or before December 17, 2009. Plaintiff was warned that failure to comply with a Court Order might result in dismissal of this case without prejudice under Local Rule 5.5(c)(2).

Plaintiff has failed to submit a proper motion to proceed *in forma pauperis* or pay the statutory filing fee, and the time to do so has passed. Accordingly, Plaintiff's Complaint (#2) should be dismissed without prejudice.

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 November 17, 2009 (#3).

DATED this 4th day of January, 2010.


UNITED STATES MAGISTRATE JUDGE