

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

THOMAS LEE DEER,  
ADC # 078527

PLAINTIFF

V.

5:10-CV-00094-JJM-JJV

RAY HOBBS, Director, Arkansas  
Department of Correction

DEFENDANT

**ORDER**

The Court has reviewed the Proposed Findings and Recommended Disposition submitted by United States Magistrate Judge Joe J. Volpe. No objections have been filed. After careful consideration, 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.

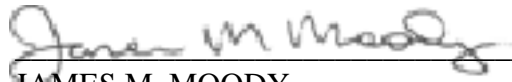
IT IS THEREFORE ORDERED that this action is DISMISSED without prejudice, all pending motions are denied as moot, and that dismissal of this action shall count as a “strike” for purposes of 28 U.S.C. § 1915(g).<sup>1</sup>

IT IS FURTHER ORDERED that 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.

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

DATED this 26<sup>th</sup> day of April, 2010.

A handwritten signature in cursive script, appearing to read "James M. Moody", written in black ink. The signature is positioned above a horizontal line.

JAMES M. MOODY  
UNITED STATES DISTRICT JUDGE