

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

**JOSEPH SMITH, ADC #127880**

**PLAINTIFF**

**v.**

**Case No. 5:10-cv-264-DPM**

**LARRY NORRIS, Former Director,  
Arkansas Department of Correction;  
REGINA M. MARTIN, Corporal,  
Delta Regional Unit, ADC; JESSE  
M. OWENS, Major, Delta Regional  
Unit, ADC; JOHNNIE RAY HARRIS,  
Disciplinary Hearing Officer, Delta  
Regional Unit, ADC; JAMES  
GIBSON, Disciplinary Hearing  
Administrator, Arkansas Department  
of Correction; MARK CASHION,  
Warden, Delta Regional Unit, ADC;  
and RAY HOBBS, Director, Arkansas  
Department of Correction**

**DEFENDANTS**

**ORDER**

The Court has considered Magistrate Judge J. Thomas Ray's Proposed Findings and Recommended Disposition—to which Joseph Smith objected—and conducted a *de novo* review of the record. The Court adopts Judge Ray's Proposed Findings and Recommended Disposition with two clarifications.

First, whether an “atypical, significant deprivation” occurred turns on the particulars of the punitive segregation. *Sandin v. Conner*, 515 U.S. 472, 486 (1995). A thirty-day segregation might not pass muster if it worked a major disruption in the inmate’s environment as compared to the general population. *Ibid.* Smith did not describe his conditions of segregated confinement or how his confinement differed from administrative segregation, protective custody, or the general population’s conditions. His Due Process claim therefore fails. *Portley-El v. Brill*, 288 F3d 1063, 1065-66 (8th Cir. 2002).

Second, *Sanders v. Norris*, No. 05-2398, 2005 WL 2861952 (8th Cir. 2 Nov. 2005), an unpublished opinion predating Federal Rule of Appellate Procedure 32.1, is not precedent and may not be cited. 8TH CIR. R. 32.1A.

An *in forma pauperis* appeal of this order and the subsequent judgment would be frivolous and not in good faith. This dismissal counts as a “strike” for purposes of 28 U.S.C.A. § 1915(g) (West 2006).

So Ordered.

*D.P. Marshall Jr.*  
D.P. Marshall Jr.  
United States District Judge

18 Oct. 10