

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

**ROY RODRIGUEZ
ADC # 141625**

PLAINTIFF

v.

No. 5:12-cv-215-DPM-JJV

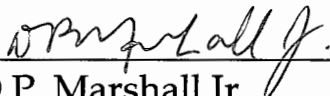
**LARRY MAY, Deputy Director, ADC;
JAMES BANKS, Warden, Varner Unit,
ADC; J PLUMMER, Sergeant, Varner
Supermax, ADC; McCRIMMON, Sergeant,
Varner Supermax, ADC**

DEFENDANTS

ORDER

The Court has considered Magistrate Judge Joe J. Volpe's Proposed Findings and Recommendations, *Document No. 6*. No one has objected. Having reviewed the proposal for clear errors of fact on the face of the record, FED. R. CIV. P. 72(b)(Advisory Committee notes to 1983 addition), and for legal error, the Court adopts the proposal as its own. The Eleventh Amendment bars Rodriguez's official-capacity claims. All claims are dismissed without prejudice. This is a strike because the complaint fails to state a claim for damages under settled law. If Rodriguez wants to pursue an individual-capacity claim against any defendant, he must re-file his case and make that plain. An *in forma pauperis* appeal from this Order and the accompanying Judgment would not be taken in good faith. All pending motions are denied as moot.

So Ordered.



D.P. Marshall Jr.
United States District Judge

16 November 2012