

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

JOHNNY LEE NICHOLS,  
ADC #115100

PLAINTIFF

V.

5:12-cv-00302-SWW-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 and Plaintiff's objections. After carefully considering the objections and making a *de novo* review of the record, 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:

1. Plaintiff's Complaint is DISMISSED WITH PREJUDICE for failure to state a claim upon which relief may be granted;
2. Dismissal of this action constitutes a "strike" for purposes of 28 U.S.C. § 1915(g);  
and
3. The Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an *in forma pauperis* appeal from this Order adopting these recommendations, and the accompanying Judgment, would not be taken in good faith.

DATED this 12<sup>th</sup> day of October, 2012.

/s/Susan Webber Wright  
UNITED STATES DISTRICT JUDGE