

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

SIDNEY HARVEY,  
ADC #081397

PLAINTIFF

v.

5:12-cv-00429-SWW-JTK

GAYLON LAY, et al.

DEFENDANTS

**ORDER**

The Court has received proposed findings and recommendations from United States Magistrate Judge Jerome T. Kearney. After a review of those proposed findings and recommendations, and the timely objections received thereto, as well as a de novo review of the record in accordance with 28 U.S.C. § 636(b)(1)(C), the Court adopts them in their entirety. Accordingly,

IT IS, THEREFORE, ORDERED that:

1. Plaintiff's Amended Complaint against Defendants is DISMISSED with prejudice, for failure to state a claim upon which relief may be granted.

2. This dismissal is considered a "strike" within the meaning of the Prison Litigation Reform Act (PLRA), 28 U.S.C. § 1915(g).

3. The Court certifies that an in forma pauperis appeal from an Order and Judgment dismissing this action will not be taken in good faith. 28 U.S.C. § 1915(a)(3).

An appropriate Judgment shall accompany this Order.

IT IS SO ORDERED this 21<sup>st</sup> day of February 2013.

/s/Susan Webber Wright  
UNITED STATES DISTRICT JUDGE