

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

JEREMY KENNEDY  
ADC #093061

PLAINTIFF

v.

No. 5:14-cv-95-DPM-HDY

RAY HOBBS, Director, ADC; MICHELLINE OLSON,  
Dr., Medical Staff, Varner Unit Infirmary; OJIUGO IKO,  
Dr., Medical Staff, Varner Unit Infirmary; CHARLOTTE  
GARDNER, Dr., Medical Staff, Varner Unit Infirmary;  
MICHELLE BISHOP, Dr., Medical Staff, Calico Rock,  
N.C.U. Infirmary; and GREGORY MCKINNEY, Dr.,  
Medical Staff, Ouachita River Unit Infirmary

DEFENDANTS

ORDER

After *de novo* review, the Court adopts Judge Young's recommendation with one change. *No 87*; FED. R. CIV. P. 72(b)(3). Kennedy's objections, *No 88*, are overruled. I think the imminent-danger exception can be litigated later in a case if the screening Court makes a tentative decision, as it did here. This practice errs on the side of caution, allowing the suit to proceed, while allowing the statutory exception to be revisited on proof later in the case to prevent abuse of the exception. Kennedy isn't entitled to IFP status because he wasn't in imminent danger of serious physical injury when he filed his complaint. If he wants to pursue this case, Kennedy must move to reopen,

and pay the \$400.00 filing and administrative fee, by 28 November 2014.  
Motion to vacate, No 76, granted. Motion to dismiss, No 74, denied as moot.  
Because the correctness of revisiting a tentative imminent-danger decision  
appears to be a novel issue, an *in forma pauperis* appeal would be in good faith.

So Ordered.

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

10 November 2014