

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

**MARLON DALE KELLON, JR.,
ADC #148814**

PLAINTIFF

v.

Case No. 5:15-cv-00319-KGB-JTK

JEREMY ANDREWS, et al.

DEFENDANTS

ORDER

The Court has received Proposed Findings and Recommendations from United States Magistrate Judge Jerome T. Kearney (Dkt. No. 3). Plaintiff Marlon Dale Kellon, Jr., filed timely objections (Dkt. No. 5). After a review of the Proposed Findings and Recommendations, and the timely objections received thereto, as well as a *de novo* review of the record, the Court adopts the Proposed Findings and Recommendations in their entirety.

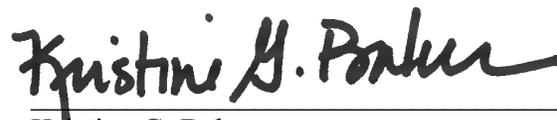
The Court writes separately to address Mr. Kellon's objections (Dkt. No. 5). In his objections, Mr. Kellon contends that he was participating in a vocational program but that he was removed from the program after receiving a disciplinary charge. Although Mr. Kellon alleges that he was found "not guilty" of the charge after appearing at his disciplinary hearing, he contends he was never reinstated to the vocational program. In his objections, Mr. Kellon contends that he must complete the vocational program to be released from prison. Mr. Kellon has not provided a copy of his judgment and conviction or terms of his sentence to permit this Court to determine what conditions may be part of his sentence. In general, prisoners have no constitutional right to educational or vocational opportunities during incarceration. *Wishon v. Gammon*, 978 F.2d 446, 450 (8th Cir. 1992). While Mr. Kellon makes a passing reference to his belief that "discrimination plays a major role in this incident," he has not alleged any facts to show that discrimination played a part

or that he has been treated differently from other prisoners who are charged with disciplinary infractions while participating in the vocational education program.

Accordingly, the Court dismisses without prejudice Mr. Kellon's complaint against the defendants for failure to state a claim upon which relief may be granted. Dismissal of this action constitutes a "strike" within the meaning of the Prison Litigation Reform Act, pursuant to 28 U.S.C. § 1915(g). The Court also certifies that an *in forma pauperis* appeal from an Order and Judgment dismissing this action would not be taken in good faith, pursuant to 28 U.S.C. § 1915(a)(3).

An appropriate Judgment shall accompany this Order.

It is so ordered this 29th day of December, 2015.

A handwritten signature in black ink, reading "Kristine G. Baker". The signature is written in a cursive, flowing style. Below the signature is a horizontal line.

Kristine G. Baker
United States District Judge