

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF ARKANSAS  
EL DORADO DIVISION

REGINALD NALLS

PLAINTIFF

v.

Civil No. 1:12-cv-01039

SCOTT RUSSELL; SHELBI  
HUGHES; and CHAD COULTER

DEFENDANTS

**ORDER**

Before the Court is the Report and Recommendation filed October 9, 2012 by the Honorable Barry A. Bryant, United States Magistrate Judge for the Western District of Arkansas. (ECF No. 7). Judge Bryant has examined Plaintiff's Motion for Leave to Proceed *In Forma Pauperis* ("IFP"). (ECF No. 1). Judge Bryant recommends that the motion be denied. Petitioner has not filed an objection to Judge Bryant's report, and the time for doing so has passed. After conducting a *de novo* review of the record, the Court adopts Judge Bryant's Report and Recommendation as its own.

Judge Bryant reviewed Plaintiff's IFP application and found that Plaintiff's economic situation warranted IFP status. Pursuant to 28 U.S.C. § 1915, Judge Bryant then reviewed Plaintiff's Complaint to determine whether it stated a claim upon which relief may be granted. Judge Bryant concluded that Plaintiff's Complaint failed to state a claim for relief. The Court agrees.

In his Complaint, Plaintiff alleges that his indictment, conviction, and imprisonment were illegal, and he brings this claims under 42 U.S.C. § 1983. To recover under § 1983 for an unconstitutional conviction or imprisonment, a plaintiff must show that his conviction or

sentence has been reversed or declared invalid. *Heck v. Humphry*, 512 U.S. 477, 486-87 (1994). Plaintiff makes no such assertion here. Without alleging such facts, Plaintiff is not entitled to relief.

Accordingly, the Court adopts Judge Bryant's Report and Recommendation in its entirety. For the reasons state above, and those in Judge Bryant's report, Plaintiff's Motion for Leave to Proceed *In Forma Pauperis* (ECF No. 1) is **DENIED**, and the case is **DISMISSED** pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii). The dismissal of this action also constitutes a "strike" under 28 U.S.C. § 1915(g). Therefore, the Clerk is directed to place a § 1915(g) strike flag on the case.

**IT IS SO ORDERED**, this 30th day of October, 2012.

/s/ Susan O. Hickey  
Hon. Susan O. Hickey  
United States District Judge