

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF ARKANSAS  
TEXARKANA DIVISION

TERRELL M. DAVIS

PLAINTIFF

vs.

Civil No. 4:11-cv-4083

WILLIAM "BILLY" MORITZ

DEFENDANT

**ORDER**

Before the Court is the Report and Recommendation filed November 2, 2011, by the Honorable Barry A. Bryant, United States Magistrate Judge for the Western District of Arkansas. (ECF No. 6). Judge Bryant recommends that Plaintiff's request to proceed *in forma pauperis* be denied and that the complaint be dismissed without prejudice. The parties have not filed objections to the Report and Recommendation, and the time to object has passed. *See* 28 U.S.C. § 636(b)(1). Therefore, the Court adopts the Report and Recommendation *in toto*. Accordingly, the Court finds that Plaintiff's request to proceed *in forma pauperis* is DENIED and that Plaintiff's complaint is DISMISSED WITHOUT PREJUDICE. Plaintiff remains liable for the \$350 filing fee under the provisions of the Prison Litigation Reform Act, *see e.g., In re Tyler*, 110 F.3d 528, 529-30 (8th Cir. 1997), and the Clerk is directed to collect the filing fee from the Plaintiff. Further, the dismissal of this action will constitute a strike under the Prison Litigation Reform Act, and the Clerk is directed to place a § 1915(g) strike flag on the case..

**IT IS SO ORDERED**, this 28th day of November, 2011.

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