

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

CALVIN O'NEAL BURTON

PLAINTIFF

VS.

Civil No. 4:11-cv-4105

BILLY MORITZ, Attorney;
PHILLIPS HARRIS, Assistant
Prosecuting Attorney

DEFENDANTS

JUDGMENT

Before the Court is the Report and Recommendation filed December 5, 2011, by the Honorable Barry A. Bryant, United States Magistrate Judge for the Western District of Arkansas. (ECF No. 7). Judge Bryant recommends that the above-styled case be dismissed without prejudice for failure to state claim upon which relief may be granted. 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*. Plaintiff's claims are **DISMISSED WITHOUT PREJUDICE**.

Plaintiff remains liable for the \$350 filing fee under the provisions of the Prison Litigation Reform Act (PLRA). The dismissal of this action constitutes a strike under the PLRA. For this reason, the Clerk is directed to place a § 1915(g) strike flag on the case.

IT IS SO ORDERED, this 3rd day of January, 2012.

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