

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

JASON ANDREW BATES

PLAINTIFF

v.

Civil No. 09-5192

SHERIFF KEITH FERGUSON;
CAPTAIN ROBERT HOLLY;
DEPUTY MORRISON; DEPUTY
HENNING

DEFENDANTS

O R D E R

Now on this 26th day of October, 2009, comes on for consideration the **Report and Recommendation of the Magistrate Judge, Hon. James R. Marschewski** (document #3, filed September 9, 2009), in this matter, to which no objections have been filed, and the Court, having carefully reviewed said Report and Recommendation, finds that it is sound in all respects, and that it should be adopted *in toto*.

IT IS THEREFORE ORDERED that the **Magistrate Judge's Report and Recommendation is adopted *in toto***.

IT IS FURTHER ORDERED that, for the reasons stated in the Magistrate Judge's Report and Recommendation, plaintiff's *in forma pauperis* application is hereby **denied and the complaint is dismissed without prejudice**. Additionally, the dismissal of this lawsuit is considered a "strike" for purposes of the Prison Litigation Reform Act (PLRA), Section 1915(g).

IT IS SO ORDERED.

/s/Jimm Larry Hendren
HON. JIMM LARRY HENDREN
UNITED STATES DISTRICT JUDGE