

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

KENNETH WAYNE LEAMING

PLAINTIFF

V.

CASE NO. 5:12-CV-05114

SHERIFF TIM HELDER

DEFENDANT

ORDER

Currently before the Court is the Report and Recommendation (“R & R”) (Doc. 134) filed on September 15, 2014, by the Honorable Erin L. Setser, United States Magistrate Judge for the Western District of Arkansas. In the R & R, the Magistrate recommends that Plaintiff Kenneth Wayne Leaming’s Motion for Leave to Appeal in forma pauperis (Doc. 122) be denied. Mr. Leaming seeks to appeal an Order (Doc. 117) entered by the Magistrate on May 22, 2014, striking various “notices” filed by him. After careful review of the R & R, Plaintiff’s objections (Docs. 139 and 140), and a *de novo* review of the record, the Court finds that Defendant’s objections offer neither law nor fact requiring departure from the Magistrate’s findings. Accordingly, the R & R should be, and hereby is **ADOPTED**.


As explained in greater detail by the Magistrate in her R & R, no valid legal basis exists to take an interlocutory appeal of the Magistrate’s Order striking frivolous “notices” filed by Mr. Leaming. Mr. Leaming objects that “[t]he Act of ‘striking’ the Testimony Evidence Presented to the Record DENIES Principal the DUE Process, protected by the union Constitution, to have a Jury decide the weight to apply to the Testimony EVIDENCE” (Doc. 139, p. 5). He also claims that “[t]he ‘stricken’ EVIDENCE appears to be

OVERT EVIDENCE of the BIAS/PREJUDICE of AKA: ‘Erin L. Setser’” (Doc. 140, p. 1).

The Court finds that the “notices” in question failed to conform to any pleading standard articulated in the Federal Rules of Civil Procedure. They did not present evidence and did not concern principles of due process. Instead, these “notices” constitute Mr. Leaming’s improper attempt to express to the Court his personal views on a variety of topics not germane to the issues in the case, such as his “Report of Conspiracy” (Doc. 25), “Official Notice to the Record” (Doc. 46), “Mandatory Notices” (Docs. 41, 55, 107), and “Notice to the Registry” (Doc. 111), to name but a few of these filings. Accordingly, as no disputed questions or important issues were resolved by the Magistrate’s Order (Doc. 117) striking these filings, appellate review of the Order is inappropriate.

IT IS THEREFORE ORDERED that the Report and Recommendation (Doc. 134) is **ADOPTED**, and Plaintiff’s Motion for Leave to Appeal in forma pauperis (Doc. 122) is **DENIED**.

IT IS SO ORDERED this 21st day of January, 2015.



TIMOTHY L. BROOKS
UNITED STATES DISTRICT JUDGE