

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
HOT SPRINGS DIVISION

JOHN D. SCOTT

PLAINTIFF

v.

Case No. 09-6079

BLAKE BASTON, Prosecuting Attorney,
Clark County; RHONDA WARE, Probation
Officer, Clark County; ROBERT MCCALLUM,
Circuit Judge, Clark County

DEFENDANTS

ORDER

Now on this 15th day of March 2010, there comes on for consideration the report and recommendation filed herein on January 28, 2010, by the Honorable Barry A. Bryant, United States Magistrate Judge for the Western District of Arkansas. (Doc. 11). Plaintiff has not filed timely, written objections.¹

The court has reviewed this case and, being well and sufficiently advised, finds as follows: The report and recommendation is proper and should be and hereby is adopted in its entirety. Accordingly, Plaintiff's Motion to Proceed IFP (doc. 1) is DENIED, and Plaintiff's Complaint is DISMISSED on the grounds that Plaintiff fails to state claims on which relief can be granted. See 28 U.S.C. § 1915(e)(2)(B)(i)-(iii) (IFP action may be dismissed on such grounds at any time). Further, this dismissal is considered a "strike" pursuant to the "three strikes" provision of 28 U.S.C. § 1915(g), and the U.S. District Clerk is directed to

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The Report and Recommendation was mailed to Plaintiff but returned for insufficient postage. A copy was re-mailed to Plaintiff on February 2, 2010, therefore, the Court allowed additional time for Plaintiff to file objections. The Court has not received any communication from Plaintiff as of the date of this Order.

appropriately flag this case. Finally, the U.S. District Clerk is directed to collect the \$350.00 filing fee from Plaintiff, and Plaintiff's Motion to Appoint Counsel (doc. 3) is DENIED AS MOOT.

IT IS SO ORDERED.

/s/ Robert T. Dawson
Honorable Robert T. Dawson
United States District Judge