

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

MARK A. ROBERTS, #202071,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO. 2:10-CV-978-WC
)	
)	
BOB RILEY, <i>et al.</i> ,)	
)	
Defendants.)	

MEMORANDUM OPINION

The plaintiff, Mark A. Roberts [“Roberts”], a state inmate, filed the instant 42 U.S.C. § 1983 action on November 16, 2010. In his complaint, Roberts challenges the constitutionality of the Alabama Community Notification Act as it is applied to him. On July 11, 2011, Roberts filed a motion to dismiss in which he seeks dismissal of this case as he filed the lawsuit on the erroneous advice of a fellow inmate and no longer desires to proceed on his complaint. Doc. No. 28.

Upon consideration of the plaintiff’s motion to dismiss, the court concludes that this motion is due to be granted and this case dismissed without prejudice. *See* Fed. R. Civ. P. 41(a)(2).

Dismissal without prejudice at the insistence of the plaintiff pursuant to Rule 41(a)(2) of the Federal Rules of Civil Procedure is committed to the sound discretion of this court

and, absent some plain legal prejudice to the defendants, denial of the dismissal constitutes an abuse of this court's discretion. *McCants v. Ford Motor Co., Inc.*, 781 F.2d 855 (11th Cir. 1986). Simple litigation costs, inconvenience to the defendants, and/or the prospect of a second or subsequent lawsuit do not constitute clear legal prejudice. *Id.* See also *Durham v. Fla. East Coast Ry. Co.*, 385 F.2d 366 (5th Cir. 1967). After thorough review of the pleadings filed by the parties, the court concludes that this case is due to be dismissed without prejudice on the motion of the plaintiff.

A separate judgment will accompany this memorandum opinion.

Done this 22nd day of February, 2012.

/s/ Wallace Capel, Jr.
WALLACE CAPEL, JR.
UNITED STATES MAGISTRATE JUDGE