

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

ROGER GLEN CONLEY, #207444,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO. 2:13-CV-583-TFM
)	[WO]
)	
DR. JEAN DARBOUZE, et al.,)	
)	
Defendants.)	

MEMORANDUM OPINION AND ORDER

I. INTRODUCTION

This 42 U.S.C. § 1983 action is pending before the court on a complaint filed by Roger Glen Conley [“Conley”], an indigent state inmate, challenging the medical treatment provided to him for back pain and conditions present at the Easterling Correctional Facility. The defendants filed special report, supported by relevant evidentiary materials, in which they addressed the plaintiff’s claims for relief. On November 7, 2013, Conley filed a motion to dismiss (Doc. No. 23).

Upon consideration of the plaintiff’s motion to dismiss, the court concludes that this motion is due to be granted.

II. DISCUSSION

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 Company, 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. Florida East Coast Railway Company*, 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.

III. CONCLUSION

For the foregoing reasons, it is

ORDERED and ADJUDGED that:

1. The plaintiff's motion to dismiss be GRANTED.
2. This case be DISMISSED without prejudice.
3. No costs be taxed herein.

Done this 19th day of November, 2013.

/s/Terry F. Moorner
TERRY F. MOORER
UNITED STATES MAGISTRATE JUDGE