

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
NORTHERN DIVISION**

CATHERYNNNE W. KENDRICK,
ADC #708204; and
FRANCES RENEE PERRY/MILLER,
ADC #708998

PLAINTIFF

V.

1:08CV00059 JLH/JTR

JUDITH R. STEED, et al.

DEFENDANTS

PROPOSED FINDINGS AND RECOMMENDED DISPOSITION

INSTRUCTIONS

The following recommended disposition has been sent to United States Chief District Judge J. Leon Holmes. Any party may serve and file written objections to this recommendation. Objections should be specific and should include the factual or legal basis for the objection. If the objection is to a factual finding, specifically identify that finding and the evidence that supports your objection. An original and one copy of your objections must be received in the office of the United States District Clerk no later than eleven (11) days from the date of the findings and recommendations. The copy will be furnished to the opposing party. Failure to file timely objections may result in waiver of the right to appeal questions of fact.

If you are objecting to the recommendation and also desire to submit new, different, or additional evidence, and to have a hearing for this purpose before the United States District Judge, you must, at the same time that you file your written objections, include a "Statement of Necessity" that sets forth the following:

1. Why the record made before the Magistrate Judge is inadequate.
2. Why the evidence to be proffered at the requested hearing before the United States District Judge was not offered at the hearing before the Magistrate Judge.
3. An offer of proof setting forth the details of any testimony or other evidence (including copies of any documents) desired to be introduced at the requested hearing before the United States District Judge.

From this submission, the United States District Judge will determine the necessity for an additional evidentiary hearing, either before the Magistrate Judge or before the District Judge.

Mail your objections and “Statement of Necessity” to:

Clerk, United States District Court
Eastern District of Arkansas
600 West Capitol Avenue, Suite A149
Little Rock, AR 72201-3325

I. Discussion

In November of 2008, Plaintiffs, Catherynne W. Kendrick and Frances Renee Perry/Miller, filed a Complaint alleging that Defendants violated their constitutional rights at the McPherson Unit of the Arkansas Department of Correction. *See* docket entry #1. On December 22, 2008, the Court issued an Order directing Plaintiffs to file: (1) separate Applications to Proceed *In Forma Pauperis*; and (2) a Substituted Complaint containing certain information. *See* docket entry #9.

On December 29, 2008, Plaintiff Perry/Miller filed a Motion asking that she be voluntarily dismissed from this action. *See* docket entry #11. On December 30, 2008, the Court issued a Partial Recommended Disposition suggesting that the Motion be granted, and that Plaintiff Perry/Miller be dismissed, without prejudice, from this action. *See* docket entry #14.

Plaintiff Kendrick has recently sent the Court a handwritten letter, which is very difficult to

read.¹ See docket entry #12. After carefully reviewing the letter, the Court believes that Plaintiff Kendrick is asking that this case be voluntarily dismissed. The Court finds good cause for granting the request, pursuant to Fed. R. Civ. P. 41(a). If the Court has misconstrued Plaintiff Kendrick's intention, she should *promptly* file Objections to this Recommended Disposition.

II. Conclusion

IT IS THEREFORE RECOMMENDED THAT:

1. Plaintiff Kendrick's Motion for Voluntary Dismissal (docket entry #12) be GRANTED, and that this case be DISMISSED, WITHOUT PREJUDICE.

2. The Court CERTIFY, pursuant to 28 U.S.C. § 1915(a)(3), that an *in forma pauperis* appeal from any Order adopting this Recommended Disposition would not be taken in good faith.

Dated this 31st day of December, 2008.


UNITED STATES MAGISTRATE JUDGE

¹ Plaintiff Kendrick contends that her writing hand has been injured. See docket entry #12.