

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

SHALONDA ARCOLA CAMPBELL  
ADC #710039

PLAINTIFF

V. 1:09CV00016 JLH/JTR

ARKANSAS DEPARTMENT OF CORRECTION, et al.

DEFENDANTS

**PROPOSED FINDINGS AND RECOMMENDED DISPOSITION**

**INSTRUCTIONS**

The following recommended disposition has been sent to United States 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**

Plaintiff, who is currently incarcerated at the McPherson Unit of the Arkansas Department of Correction, has commenced this *pro se* § 1983 action alleging that Defendants have violated her constitutional rights. *See* docket entries #1 and #25. Defendants have not been served.<sup>1</sup>

On July 10, 2009, Plaintiff mailed the Court a Motion for Voluntary Dismissal. *See* docket entry #36. The next day, she mailed the Court a Motion seeking permission to withdraw her Motion for Voluntary Dismissal. *See* docket entry #35. The Court granted Plaintiff's Motion, and allowed her to withdraw her Motion for Voluntary Dismissal. *See* docket entry #40.

On July 22, 2009, Plaintiff filed a Second Motion for Voluntary Dismissal. *See* docket entry #39. Because Defendants have not been served, Plaintiff is entitled to dismiss her case, without leave of the Court. *See* Fed. R. Civ. P. 41(a)(1)(A)(i).

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<sup>1</sup>On June 5, 2009, the Court entered a Recommended Partial Disposition suggesting that Defendant Arkansas Department of Correction be dismissed, with prejudice, and that the remaining Defendants be served. *See* docket entry #29. That Recommended Partial Disposition is still pending.

## II. Conclusion

IT IS THEREFORE RECOMMENDED THAT:

1. Plaintiff's Second Motion for Voluntary Dismissal (docket entry #39) be GRANTED, and this case be VOLUNTARILY DISMISSED, WITHOUT PREJUDICE.
2. The Court CERTIFY, pursuant to 28 U.S.C. § 1915(a)(3), that an *informa pauperis* appeal from any Order and Judgment adopting this Recommended Disposition would not be taken in good faith.

Dated this 28<sup>th</sup> day of July, 2009.

  
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UNITED STATES MAGISTRATE JUDGE