

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

**BRYAN EDWARD SLAYTON
REG # 11196-074**

PLAINTIFF

v.

Case No. 2:15-cv-00085-KGB-JJV

**RIVERA, Warden,
FCC-Forrest City, et al.**

DEFENDANTS

ORDER

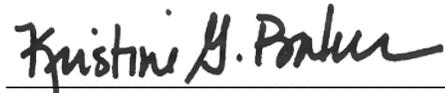
The Court has reviewed the Proposed Findings and Recommendations submitted by United States Magistrate Judge Joe J. Volpe (Dkt. No. 31). Plaintiff Bryan Edward Slayton has not filed timely objections to the Proposed Findings and Recommendations. In fact, he has made no timely filing to which he refers as objections in response to the pending Proposed Findings and Recommendations. Instead, Mr. Slayton filed a notice of rescission (Dkt. No. 35). The Court construes Mr. Slayton's notice of rescission as a motion for voluntary dismissal pursuant to Federal Rule of Civil Procedure 41(a)(2). Mr. Slayton cannot dismiss this action at this time without a court order, as he filed his notice of dismissal after defendant Jeremy Lloyd filed a motion for summary judgment (Dkt. No. 31). *See* Fed. R. Civ. P. 41(a)(1) (providing that a plaintiff may dismiss an action without a court order by filing "a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment"). Mr. Lloyd is the only remaining defendant in this action. The Court will not grant Mr. Slayton's request to dismiss this action without prejudice, as the Court determines that this action should be dismissed with prejudice. Therefore, Mr. Slayton's motion for voluntary dismissal is denied (Dkt. No. 35).

After careful consideration, the Court concludes that the Proposed Findings and Recommendations should be, and hereby are, approved and adopted in their entirety as this Court's findings in all respects (Dkt. No. 31).

It is therefore ordered that:

1. The Clerk of Court alter the docket to reflect that Defendant "Lloyd" is "Jeremy Lloyd."
2. Mr. Lloyd's motion for summary judgment is granted (Dkt. No. 27).
3. Mr. Slayton's motion for voluntary dismissal is denied (Dkt. No. 35).
4. This action is dismissed with prejudice.
5. The Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an *in forma pauperis* appeal from this Order would not be taken in good faith.

Dated this 9th day of February, 2017.



Kristine G. Baker
United States District Judge