

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

JORDAN BUNCH

PLAINTIFF

v.

CASE NO: 3:20CV00213-JM-JJV

STATE OF ARKANSAS, *et al.*

DEFENDANTS

ORDER

The Court has reviewed the Proposed Findings and Recommended Disposition ("Recommended Disposition") submitted by United States Magistrate Judge Joe J. Volpe. Plaintiff did not file an objection to the Recommended Disposition but instead filed a motion to voluntarily dismiss his case. (Doc. No. 6).

Under Rule 41 (a)(1), an action may be dismissed by the plaintiff without order of court: (i) by filing a notice of dismissal at any time before service by the adverse party of an answer or of a motion for summary judgment, whichever first occurs, or (ii) by filing a stipulation of dismissal signed by all parties who have appeared in the action. Fed.R.Civ.P. 41(a). Because defendants have not been served, Plaintiff is allowed to voluntarily withdraw his complaint. This case will not count as a PLRA strike. See *Gard v. Dooley*, 2015 U.S. Dist. LEXIS 129070 (citing *Tolbert v. Stevenson*, 635 F.3d 646, 654 (4th Cir. 2011) ("Because a voluntary dismissal is not one of the grounds listed in § 1915(g), these actions do not count as strikes.")).

Plaintiff will remain responsible to pay the entire filing fee for this lawsuit. The Prison Litigation Reform Act, 28 U.S.C. § 1915(b)(1), does not provide any authority or mechanism for the Court to waive the payment of Plaintiff's filing fee, or to return the filing fee after dismissal of an action.

IT IS, THEREFORE, ORDERED that:

1. Plaintiff's Motion to Dismiss (Doc. No. 6) is GRANTED.

2. This case will be dismissed without prejudice based on Plaintiff's voluntary dismissal, and the dismissal will not be counted as a strike under 28 U.S.C. § 1915(g).

3. Plaintiff remains responsible to pay filing fee as set forth in the order of August 24, 2020 (Doc. No. 4).

4. The Magistrate's Recommended Disposition (Doc. No. 5) is moot.

DATED this 13th day of October, 2020.


UNITED STATES DISTRICT JUDGE