

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

CALVIN G. WILSON

PLAINTIFF

VS.

CASE NO. 4:09-CV-00806 GTE

**JOHN E. POTTER,
Postmaster General
United States Postal Service**

DEFENDANT

ORDER

The Court in an earlier Order provided Plaintiff Calvin Wilson with an opportunity to show cause why Defendant's summary judgment motion should not be granted. *See* Order dated June 11, 2011, doc. no. 30. The Court in that Order noted that it appeared judgment in favor of the Defendant was appropriate. The Court set a deadline of June 24, 2011, for Plaintiff to respond. On June 27, 2011, Plaintiff filed a motion to withdraw his discrimination case, citing his declining health as the cause.

Because a motion for summary judgment is pending, it is not appropriate to simply dismiss Plaintiff's claim. The Court will, however, grant Defendant summary judgment. Defendant contends and the record appears uncontroverted that Plaintiff can not prevail on his claim that the United States Postal Service discriminated against him on the basis of his disability and failed to accommodate his disability in violation of the Rehabilitation Act.

IT IS THEREFORE ORDERED THAT Defendant's motion for summary judgment (docket no. 23) be, and it is hereby, GRANTED. All claims asserted by Plaintiff in this case are hereby DISMISSED WITH PREJUDICE.

IT IS FURTHER ORDERED THAT Plaintiff's motion to withdraw his discrimination case (docket no. 36) be, and it is hereby, DENIED.

IT IS SO ORDERED this 5th day of July, 2011.

/s/Garnett Thomas Eisele
UNITED STATES DISTRICT JUDGE