

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

KENNETH RAY IRVIN
REG #23587-009

PLAINTIFF

V.

4:10CV00107 SWW

UNITED STATES OF AMERICA

DEFENDANT

ORDER OF DISMISSAL

Plaintiff, Kenneth Ray Irvin, is a prisoner in the Federal Correctional Institution located in Memphis, TN. *See* docket entry #1. On February 16, 2010, he commenced this *Bivens* action alleging that Defendant United States of America violated his constitutional rights when it seized his vehicle during the course of his criminal trial in *United States v. Irvin*, 4:05CV00054-1 JLH (Eastern District of Arkansas). *Id.* The proper procedure for seeking the return of property seized during a criminal proceeding is to file a Motion, in the criminal case, pursuant to Fed. R. Crim. P. 41(g).

IT IS THEREFORE ORDERED THAT:

1. This *Bivens* action is DISMISSED, WITH PREJUDICE.
2. The Court CERTIFIES, pursuant to 28 U.S.C. § 1915(a)(3), that an *in forma pauperis* appeal from this Order of Dismissal and the accompanying Judgment would not be taken in good faith.
3. The Clerk is directed to file a copy of Plaintiff's Complaint (docket entry #1) as Plaintiff's Rule 41(g) Motion in *United States v. Irvin*, 4:05CR00054-1 JLH.

Dated this 23rd day of March, 2010.

/s/Susan Webber Wright
UNITED STATES DISTRICT JUDGE