

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

KENNY HALFACRE
ADC #84410

PLAINTIFF

V.

5:08CV00284 SWW/JTR

FLOY P. BOSTICK,
Circuit Clerk, Chicot County; and
ANNETTE BRANCH,
Circuit Clerk, Jefferson County

DEFENDANTS

PROPOSED FINDINGS AND RECOMMENDED DISPOSITION

INSTRUCTIONS

The following recommended disposition has been sent to United States District Judge Susan Webber Wright. 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 confined in the Varner Unit of the Arkansas Department of Correction, has filed a Motion seeking the Court’s permission to voluntarily dismiss this *pro se* § 1983 action. *See* docket entry #30. Importantly, Defendants have orally informed the Court that they have no objection to Plaintiff’s request. Thus, voluntary dismissal is proper pursuant to Fed. R. Civ. P. 41(a)(1).

II. Conclusion

IT IS THEREFORE RECOMMENDED THAT:

1. Plaintiff’s Motion for Voluntary Dismissal (docket entry #30) be GRANTED, and that this case be DISMISSED, WITHOUT PREJUDICE.

2. The Court CERTIFY, pursuant to 28 U.S.C. § 1915(a)(3), that an *in forma pauperis* appeal from any Order and Judgment adopting this Recommended Disposition would not be taken in good faith.

Dated this 3rd day of June, 2009.



UNITED STATES MAGISTRATE JUDGE