

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

**LARRY WAYNE JONES,
ADC #070147**

PLAINTIFF

v.

CASE NO. 5:10CV00355 BSM/JJV

**SHERRY CONRAD,
Mailroom Supervisor, Varner Unit
Arkansas Department of Correction, et al.**

DEFENDANTS

ORDER

The proposed findings and recommended partial disposition [Doc. No. 12] submitted by United States Magistrate Judge Joe J. Volpe and the filed objections [Doc. No. 16] have been reviewed. After carefully considering these documents and making a *de novo* review of the record, it is concluded that the proposed findings and recommended partial disposition should be, and hereby are, approved and adopted in part and rejected in part.

In his filed objections, Jones moved to withdraw his access to courts claim. He alleges that defendants have destroyed a package he intended to use as evidence and believes that without that evidence, the validity of his complaint cannot be determined. He objects to his denial of access to courts claim being dismissed with prejudice and instead, wishes to withdraw this claim in order to preserve it should it become ripe at a later date.

Amendments to a complaint are to be liberally granted where necessary to bring about the furtherance of justice and where the adverse party will not be prejudiced. *Mouser v. Caterpillar, Inc.*, 336 F.3d 656, 666 (8th Circuit 2003). Allowing Jones to withdraw his claim will further the interest of justice by allowing him the opportunity to bring the claim again

should it become ripe. Further, dismissing this claim without prejudice will not prejudice defendants.

IT IS THEREFORE ORDERED that:

1. Plaintiff's claim for monetary relief against defendants in their official capacity should be DISMISSED with prejudice.

2. Plaintiff's denial of access to courts claim against defendants in their individual capacity should be DISMISSED without prejudice.

Dated this 26th day of October 2011.


UNITED STATES DISTRICT JUDGE