

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

JUQAN DEMETRIUS MUHAMMAD,  
a/k/a WILLIE MURRY, ADC #97878

PLAINTIFF

v.

No. 5:11CV00278 JLH-JTK

GRANT HARRIS, et al.

DEFENDANTS

**ORDER**

This matter is before the Court on Plaintiff's Motion to voluntarily Dismiss his complaint against Defendants (Doc. No. 58). Defendants oppose the Motion, to the extent that they ask this Court to grant their previously-filed Motion to Dismiss on the basis that Plaintiff's Complaint is frivolous, or in the alternative, grant Plaintiff's Motion and count the dismissal as a strike, within the meaning of 28 U.S.C. §1915(g) (Doc. No. 59).<sup>1</sup>

In his Motion, Plaintiff states that he wishes to dismiss the lawsuit because it "was to make sure that everything is recorded just so when I go to court for the assault they will see that I was forced into this mental state...by these defendants and their actions...when I was only trying to get out the isolation like everyone else." (Doc. No. 58.) Defendants state this is an admission by Plaintiff that he filed the lawsuit to provide an excuse for his prior assaultive behavior. Defendants further state Plaintiff abused the legal system and subjected them to a suit which required significant investigation and review, and now admits to its frivolousness.

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<sup>1</sup>The statute provides that a prisoner may not file an in forma pauperis civil rights action or appeal if the prisoner has, on three or more prior occasions, filed an action or appeal that was dismissed as frivolous, malicious or for failure to state a claim, unless the prisoner is under imminent danger of serious physical injury.

Based on reasoning set forth in Plaintiff's Motion, it now appears to the Court that this action was not filed in good faith and that its dismissal should be counted as a strike, based on frivolousness.

Accordingly,

IT IS, THEREFORE, ORDERED that:

1. This Court declines to adopt the April 4, 2012 Proposed Findings and Recommendations (Doc. No. 49).<sup>2</sup>

2. Plaintiff's Motion to voluntarily dismiss this action (Doc. No. 58) is GRANTED.

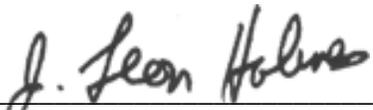
3. This action is DISMISSED, with prejudice, as frivolous.

4. Dismissal of this action counts as a "strike" within the meaning of the Prison Litigation Reform Act (PLRA), 28 U.S.C. § 1915(g).

5. Defendants' Motion to Dismiss is DENIED as moot.

An appropriate Judgment shall accompany this Order.

IT IS SO ORDERED this 24th day of April, 2012.

  
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J. LEON HOLMES  
UNITED STATES DISTRICT JUDGE

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<sup>2</sup>The Court recommended that Defendants' Motion to Dismiss be granted in part, with respect to Plaintiff's allegation that he did not receive video with the audio, and with respect to Plaintiff's allegations against them in their official capacities for money damages, and denied in all other respects.