

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

TONY CURTIS AINLEY, JR.,
ADC #140402

PLAINTIFF

V.

5:12-cv-00018-JLH-JTK

RAY HOBBS, et al.

DEFENDANTS

ORDER

Plaintiff Tony Ainley is a state inmate incarcerated at the Varner Super Max Unit of the Arkansas Department of Correction (ADC). He filed this action pro se, pursuant to 42 U.S.C. § 1983, together with a Motion to Proceed In Forma Pauperis pursuant to 28 U.S.C. § 1915 (Doc. No. 1). However, after reviewing Plaintiff's Complaint, the Court finds that his Motion should be denied, that this action should be dismissed, and should be re-filed as a Motion to Amend in another pending action.

The Prison Litigation Reform Act (PLRA) requires federal courts to screen prisoner complaints seeking relief against a governmental entity, officer, or employee. 28 U.S.C. § 1915A(a). The Court must dismiss a complaint or portion thereof if the prisoner has raised claims that: (a) are legally frivolous or malicious; (b) fail to state a claim upon which relief may be granted; or (c) seek monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915A(b).


In the present Complaint, filed against ADC Director Ray Hobbs and Varner Unit Chaplain Charles Freyder, Plaintiff states he would like his religion to be honored and that he does not believe that the Defendants will honor his religion. Plaintiff also acknowledges the existence of another pending case dealing with the same facts, Ainley v. Hobbs, 5:11-cv-00247-DPM-HDY (Doc. No.

2, p. 1). In that Complaint, Plaintiff alleges that Defendant Hobbs is trying to keep him from practicing his religion of Hinduism. The Court finds these two Complaints sufficiently similar to warrant construing the present Complaint as an attempt to add a Defendant to his previously-filed Complaint. Therefore, rather than assessing a second \$350.00 filing fee to institute the present action which adds a second Defendant to a claim duplicative of that asserted in a currently-pending case, the Court finds that this Complaint should be dismissed and should be re-filed as a Motion to file an Amended Complaint in Ainley v. Hobbs, 5:11-cv-00247-DPM-HDY. Accordingly,

IT IS, THEREFORE, ORDERED that:

- 1) Plaintiff's Motion to Proceed In Forma Pauperis (Doc. No. 1) is DENIED.
- 2) This Complaint is DISMISSED, and shall be re-filed as a Motion to Amend in Ainley v. Hobbs, 5:11-cv-00247-DPM-HDY.

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



J. LEON HOLMES
UNITED STATES DISTRICT JUDGE