

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF ILLINOISMARK LOUIS SANDON,
Plaintiff,

vs.

No. 09-1003,

DENNY SMITH, et al.,
Defendants.DISMISSAL ORDER

This cause is before the court on plaintiff's motion to voluntarily dismiss his lawsuit. [d/e 59]. This case was originally filed in the United States District Court in Kentucky. However, the court decided to retain certain damage claims that had arisen in that venue, but also transferred one of the plaintiff's claims for injunctive relief to the United States District Court for the Central District of Illinois.

The plaintiff then filed a motion to amend his complaint which was granted. February 9, 2009 Text Order. The court conducted a merit review of the plaintiff's complaint and found that he had properly alleged that five defendants at the Federal Correctional Institution in Pekin, Illinois, had violated his Eighth Amendment rights when they were deliberately indifferent to his serious medical condition. February 13, 2009 Merit Review Order.

Specifically, the plaintiff alleged that the defendants both delayed and refused necessary medical care for Hepatitis C, chronic liver disease and a nerve disorder. February 13, 2009 Merit Review Order.

The defendants have now filed a motion for summary judgement claiming the plaintiff failed to exhaust his administrative remedies for his claim and he has failed to prosecute his case. (Def. Mot. d/e 55). The defendants claim the plaintiff has failed to participate in any aspect of the discovery process including providing responses to discovery requests or showing up for his scheduled deposition. (Def. Mot. d/e 55).

The plaintiff has not filed a response, but has instead filed his motion to dismiss his case. The plaintiff says he has been released from incarceration, but currently resides in a halfway house which provides care for alcoholism. The plaintiff seems to claim he had not received his mail, but does not explain this claim. The plaintiff says he has learned:

that he would receive the treatment this cause is about and that the

defendant told him he needed and doctors of the Bureau tried repeatedly to treat him. To move along further with this cause would serve no purpose. (Plain Mot., p. 2)

The defendants say they have no objection to the plaintiff's motion. Therefore, the court will grant the motion to voluntarily dismiss this lawsuit.

IT IS THEREFORE ORDERED that:

- 1) The plaintiff's motion to voluntarily dismiss this case is granted pursuant to Rule 41 of the Federal Rules of Civil Procedure. [d/e 59] All pending motions are denied as moot. [d/e 54, 55] The case is dismissed without prejudice.**
- 2) The plaintiff is still responsible for the payment of the \$350 filing fee.**

Entered this 4th day of February, 2010.

s\Harold A. Baker

HAROLD A. BAKER
UNITED STATES DISTRICT JUDGE