

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

<b>DAVID ANTHONY McKINNEY,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>vs.</b>	)	<b>CIVIL NO. 05-345-DRH</b>
	)	
<b>JOHN ASHCROFT, et al.,</b>	)	
	)	
<b>Defendants.</b>	)	

**MEMORANDUM AND ORDER**

**HERNDON, District Judge:**

Plaintiff, an inmate currently in the United States Penitentiary at Marion, Illinois, brings this action pursuant to the Federal Tort Claims Act, 28 U.S.C. §1346, 2671-2680; he seeks reimbursement for property that he claims was confiscated, namely one book and five bags of fiberfil stuffing. Plaintiff previously was granted leave to proceed *in forma pauperis*, and the Court now waives the requirement that Plaintiff tender an initial partial filing fee. *See* 28 U.S.C. § 1915(b)(4). However, Plaintiff remains liable for the full \$250 filing fee for this action. *See* 28 U.S.C. § 1915.

Plaintiff has named several individuals as defendants in this action but, in an action under the FTCA, the United States of America is the only proper defendant. *See* 28 U.S.C. § 2679(b). Therefore, the United States of America is **SUBSTITUTED** as the sole Defendant in this action, and **ALL INDIVIDUAL DEFENDANTS** are hereby **DISMISSED** from this action with prejudice.

**IT IS HEREBY ORDERED** that in all future pleadings, the title of this case shall be “*David McKinney, Plaintiff, vs. United States of America, Defendant.*”

**IT IS FURTHER ORDERED** that Plaintiff shall complete and submit a USM-285 form for the **ATTORNEY GENERAL of the UNITED STATES** and the **UNITED STATES ATTORNEY for the SOUTHERN DISTRICT OF ILLINOIS** within **THIRTY (30) DAYS** of

the date of entry of this Memorandum and Order. The Clerk is **DIRECTED** to send Plaintiff **TWO (2)** USM-285 forms with Plaintiff's copy of this Memorandum and Order. **Plaintiff is advised that service will not be made on until Plaintiff submits these properly completed USM-285 forms.**

**IT IS FURTHER ORDERED** that the United States Marshal shall serve a copy of the Complaint, Summons, and this Order upon the United States Attorney for the Southern District of Illinois and upon the Attorney General of the United States at Washington, D.C., pursuant to Rule 4(i) of the Federal Rules of Civil Procedure. All costs of service shall be advanced by the United States.

**IT IS FURTHER ORDERED** that Plaintiff shall serve upon the United States Attorney for the Southern District of Illinois, a copy of every further pleading or other document submitted for consideration by this Court. He shall include, with the original paper to be filed with the Clerk of the court, a certificate stating the date that a true and correct copy of any document was mailed to the United States Attorney. Any paper received by a district judge or magistrate which has not been filed with the Clerk or which fails to include a certificate of service will be disregarded by the Court.

**IT IS FURTHER ORDERED** that pursuant to Local Rule 72.1(a)(2), this cause is referred to a United States Magistrate Judge for further pre-trial proceedings.

**IT IS FURTHER ORDERED** that this entire matter be referred to a United States Magistrate Judge for disposition, as contemplated by Local Rule 72.2(b)(2) and 28 U.S.C. § 636(c), *should all the parties consent to such a referral.*

**IT IS SO ORDERED.**

**DATED: June 15, 2006.**

/s/ David RHerndon  
**DISTRICT JUDGE**