

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

**DONNIE D. WHITE, #B-31317,** )  
**TERRENCE M. LOVE, #N-02073,** )  
**HENRY MOUNSON, #N-73406,** )  
**JOSEPH HERMAN, #B-45057, and** )  
**RODNEY DEES, #N-93497,** )

**CASE NO. 11-cv-346-GPM**

**Plaintiffs,** )

**vs.** )

**YOLANDE D. JOHNSON, et al.,** )

**Defendants.** )

**MEMORANDUM AND ORDER**

**MURPHY, District Judge:**

This matter is before the Court for case management, and for consideration of the following motions: motion to voluntarily dismiss filed by lead Plaintiff Donnie D. White (Doc. 24); and motions to withdraw as plaintiff filed by Plaintiffs Terrence Love (Doc. 25), Henry Mounson (Doc. 26), Joseph Herman (Doc. 27), and Rodney Dees (Doc. 28). On February 16, 2012, the Court ordered each of the four non-lead Plaintiffs to advise whether he wished to continue as a Plaintiff in this group action (Doc. 23); each has timely filed an appropriate motion.

**Motions to Withdraw as Plaintiff**

Plaintiffs Love, Mounson, Herman, and Dees, by their motions, have notified the Court they no longer want to participate in this group litigation, and ask to be dismissed from this action. The Court shall therefore dismiss these Plaintiffs. Plaintiff Dees makes the additional request that the partial filing fee he has paid to the Court be refunded to him (Doc. 28). That request cannot be granted. The obligation to pay the filing fee for this action was incurred at the

time the action was filed, thus the filing fee of \$350 for each Plaintiff remains due and payable. See 28 U.S.C. § 1915(b)(1); *Lucien v. Jockisch*, 133 F.3d 464, 467 (7th Cir. 1998) (once incurred, the obligation to pay the filing fee continues regardless of later developments in the suit, such as dismissal of the case or denial of leave to proceed IFP); *Boriboune v. Berge*, 391 F.3d 852, 854 (7th Cir. 2004) (each prisoner-plaintiff in a joint action must pay a full filing fee, just as if he had filed the suit individually).

**IT IS THEREFORE ORDERED** that Plaintiffs **LOVE, MOUNSON, HERMAN**, and **DEES** are **DISMISSED** from this action **without prejudice**. The motions at Docs. 25, 26, and 27 are **GRANTED**. Plaintiff Dees' motion at Doc. 28 is **GRANTED IN PART** and **DENIED IN PART**. Plaintiff Dees is dismissed from this action, but his request for reimbursement of his filing fee is **DENIED**.

**Motion for Voluntary Dismissal**

Lead Plaintiff White requests dismissal of the case in its entirety (Doc. 24). Because this Court has granted the requests of the other Plaintiffs to be dismissed from this action, there is no obstacle to granting Plaintiff White's motion. A Plaintiff has the right to voluntarily withdraw his claim. FED. R. CIV. P. 41(a)(1)(A)(i). Accordingly, this action is **DISMISSED WITHOUT PREJUDICE**. As noted above, Plaintiff White remains responsible for payment of his filing fee, despite the dismissal of this action.

**IT IS SO ORDERED.**

**DATED: March 16, 2012**

*/s/ G. Patrick Murphy*  
G. PATRICK MURPHY  
United States District Judge