

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

DONNIE D. WHITE,

Plaintiff,

v.

Case No. 12-cv-1124-JPG

SALVADOR GODINEZ, JESSE MONTGOMERY, TY BATES, YOLANDE JOHNSON, MICHAEL THOMAS, JONES, LINDA ELLIS, GREGORY LAMBERT, ROBIN DILLON, JOHN BARWICK, APRIL MOORE, CONNIE HOUSTON, SALLY RAMSEY, TOMA OSMAN, BONNIE SULLIVAN, JESSICA MIDDLETON, TONYA LOVELESS, CARL MILLER, DANIEL MONTI, JOHN BRANCHE, HOMER MARKEL, GENEVA BONIFIELD, REBECCA ADAMS, SARAH ROBERTSON, JOSE DELGADO, CHAD PARRISH, GEORGE HADEN, BILLY VAUGHN, JAMES STUDER, JOSEPH DAVIS, ERIC PLOTT, ROBERT BENNEFIELD, ANITA RAMSEY, DAVID TESKE, ANITA ETHRIDGE, MICHAEL MCCLELLAND, PATRICK FERGUSON, JAMES WATKINS, RICKY DAUGHERTY, COLE CARTER, JARED BLESSING, JOHN ADAMS, KEITH GIBSON, KYLE MASSEY, TORI BERNACHI, JEFFREY BUNDREN, BRIAN HAMBY, CHRISTOPHER PHEMISTER, JASON HANLOCK, CURTIS MOORE, NEALY FLAMM, CORY FUQUA, GEORGE JOHNSON, LAURA MATHIS, RICHARD MILES, JEFF PETERSON, MATTHEW PLUMMER, BARBARA RAUGUST, STACY REESE, CIERRA SIMPSON, EUGENE SIMPSON, JAMIE SISK, ANGELA SMITH, JUPITER JARED STAPLES, MELISSA TESKE, KENNETH SMITH, RAYMOND MCCANN, CHERYL L COUCH, CAROL BLACKMON, CATHERINE LARRY, WANDA EVANS, MARVIN POWERS, NIGEL VINYARD, ANITRA PARRISH, KATHIE BUTLER, DELORES LANIER, KIP DILLOW, RHONNA MEDLIN, MARILYN MELTON, CAROL GEORGE, CLAUDIA LESLIE, KALA SIMS, CAMILLE ADAMS, SHELBY DUNN, MARY HILL, LAURA QUALIS and KRISSY WATSON,

Defendant.

MEMORANDUM AND ORDER

This matter comes before the Court on the notice of voluntary dismissal (Doc. 20) pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i) filed by plaintiff Donnie D. White. Rule 41(a)(1)(A)(i) allows a plaintiff to dismiss an action without a court order at any time before the

opposing party serves an answer or a motion for summary judgment. The defendants have not served an answer or motion for summary judgment in this case. Because the plaintiff has an absolute right to dismiss this case at the present time, the Court finds that this action is **DISMISSED without prejudice** and **DIRECTS** the Clerk of Court to close this case.

Previously, the undersigned Judge denied Plaintiff's motion to proceed *in forma pauperis* ("IFP") in this matter (Doc. 17). The voluntary dismissal of this case does not relieve Plaintiff of his responsibility to pay the \$350.00 filing fee. A prisoner incurs the obligation to pay the filing fee for a lawsuit when the suit is filed, and the obligation continues regardless of later developments in the suit, such as dismissal of the suit or denial of leave to proceed IFP. See 28 U.S.C. § 1915(b)(1), (e)(2); *Lucien v. Jockisch*, 133 F.3d 464, 467-68 (7th Cir. 1998).

Accordingly, the agency having custody of the plaintiff, is directed to remit the \$350.00 filing fee from his prison trust fund account if such funds are available. If he does not have \$350.00 in his account, the agency must send 20% of the current balance or the average balance during the past six months, whichever amount is higher; thereafter, the agency shall begin forwarding monthly payments from the Plaintiff's trust fund account to the Clerk of Court each time the Plaintiff's account exceeds \$10.00 until the statutory fee of \$350.00 is paid in its entirety. Payments shall be mailed to: Clerk of the Court, United States District Court for the Southern District of Illinois, P.O. Box 249, East St. Louis, Illinois 62202. The Clerk is DIRECTED to mail a copy of this Order to the Trust Fund Officer at the Pontiac Correctional Center upon entry of this Order.

IT IS SO ORDERED.

DATED: January 18, 2013

s/ J. Phil Gilbert
J. PHIL GILBERT
DISTRICT JUDGE