

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

**JESSICA WALKER,**

**Petitioner,**

**vs.**

**JAMES N. CROSS,**

**Respondent.**

**No. 13-cv-102-DRH-PMF**

**ORDER**

**HERNDON, Chief District Judge:**

Pending before the Court is petitioner Jessica Walker's motion to dismiss case 13-cv-102 (Doc. 11). Walker asks the Court to dismiss this action, stating her belief that it is a duplicate of *Walker v. Samuels, Jr., et al.*, 12-cv-1296-GPM, a different cause of action which alleges violations of Walker's constitutional rights by persons acting under the color of federal authority. See *Bivens v. Six Unknown Named Agents*, 403 U.S. 388 (1971). District Judge Murphy dismissed Walker's *Bivens* action on March 8, 2013. Walker has appealed this dismissal.

Walker's instant § 2241 petition and her *Bivens* action share similar factual bases. However, Walker's instant § 2241 petition requests that sentence credit be awarded to her. A reduction of sentence is not an available remedy in a civil rights action. See *Preiser v. Rodriguez*, 411 U.S. 475, 500 (1973) (habeas action is used to seek an immediate or speedier release from custody). Thus, Judge Murphy's dismissal of Walker's *Bivens* action was without prejudice to Walker pursuing her

instant § 2241 petition (12-cv-1296, Doc. 11, p. 5). Thus, strictly speaking, these actions are not in fact “duplicates.” As Walker’s motion seeks voluntary dismissal based solely on her belief that the above-mentioned actions are “duplicates,” Walker’s motion is **DENIED** (Doc. 11). Armed with this knowledge, should Walker still desire to voluntarily dismiss this action she is free to do so in accordance with the applicable rules of civil procedure. *See* Fed. R. Civ. P. 41.

**IT IS SO ORDERED.**

Signed this 23<sup>rd</sup> day of April, 2013.

*David R. Herndon*



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David R. Herndon

Date: 2013.04.23

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**Chief Judge**

**United States District Court**