

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

PATRICK THELEN, # 16842-039,

Plaintiff,

vs.

**JAMES CROSS, JR.,
CHARLES E. SAMUELS, JR.,
and ERIC HOLDER,**

Defendants.

Case No. 14-cv-760-MJR

MEMORANDUM AND ORDER

REAGAN, District Judge:

Plaintiff is currently incarcerated at the Federal Correctional Institution at Greenville. He brought this *pro se* civil rights action on July 2, 2014, pursuant to *Bivens v. Six Unknown Named Agents*, 403 U.S. 388 (1971). On July 18, 2014, Plaintiff moved this Court for voluntary dismissal of the action (Doc. 6), because he was notified that he had not exhausted all of the claims he sought to bring in this matter. Plaintiff prayed in the alternative for a stay and abeyance of this case, but affirmed that he would prefer a voluntary dismissal. The Court agrees that dismissal is appropriate, as the suit is premature if Plaintiff's claims have not yet been exhausted. *See* 42 U.S.C. § 1997e(a).

Pursuant to Rule 41(a)(1)(A)(i) of the Federal Rules of Civil Procedure, voluntary withdrawal of his claim is Plaintiff's right. Accordingly, this action is **DISMISSED WITHOUT PREJUDICE**. The pending motion for service of process at government expense (Doc. 3) is **DENIED** as moot.

Plaintiff is **INSTRUCTED** that, although he has dismissed his claims, he must still pay the filing fee for this case. *See* 28 U.S.C. § 1915(b)(1), (e)(2); *Lucien v. Jockisch*, 133 F.3d 464, 467 (7th Cir. 1998) (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.). Plaintiff's motion for leave to proceed *in forma pauperis* (IFP) (Doc. 2) shall be addressed by separate order.

IT IS SO ORDERED.

DATED: July 21, 2014

s/ MICHAEL J. REAGAN
DISTRICT JUDGE