

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

KENTES WEST,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 16-CV-989-NJR
)	
MIGNERON,)	
)	
Defendant.)	

MEMORANDUM AND ORDER

ROSENSTENGEL, District Judge:

Plaintiff originally filed suit on April 11, 2016, alleging various constitutional violations arising out of his time at Menard. (Case No. 16-414, Doc. 1). The Court severed the present claim as unrelated on August 29, 2016. (Doc. 1). The Court further reviewed the Complaint pursuant to § 1915A on October 31, 2016, and determined that Plaintiff had failed to state a viable claim. (Doc. 6). Plaintiff also was granted leave to amend at that time. (Doc. 6). Plaintiff was warned that failure to file a First Amended Complaint would result in dismissal and the assessment of a strike. (Doc. 6).

On October 31, 2016, Plaintiff moved this Court for voluntary dismissal of the action pursuant to Rule 41(a)(1)(A)(i) of the Federal Rules of Civil Procedure (Doc. 7). Voluntary withdrawal of his claim is Plaintiff's right, and, accordingly, this action is **DISMISSED without prejudice**. The Court will not assess a strike. Plaintiff is **INSTRUCTED** that, though he has dismissed his claim, 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 has represented to the Court that it was his intention to file one suit, and that he was dismayed by the severance of his claims into multiple suits with multiple filing fees. However, the original severance order was signed by Judge Staci M. Yandle in Case No. 16-414-SMY. Should Plaintiff wish to contest that order, he should file a motion with Judge Yandle in that case. Unless Judge Yandle or an appellate court finds that the case was improperly severed, the Court will not disturb that ruling in this case and shall consider this case properly filed and a fee rightly assessed.

IT IS SO ORDERED.

DATED: November 1, 2016

A handwritten signature in black ink that reads "Nancy J. Rosenstengel". The signature is written in a cursive style and is positioned above a horizontal line.

NANCY J. ROSENSTENGEL
United States District Judge