

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

JOHN WILSON, B15948)	
)	
Plaintiff,)	
)	
vs.)	Case No. 16-1119-SMY
)	
JEFF HUTCHINSON,)	
)	
Defendant.)	

NOTICE OF IMPENDING DISMISSAL

YANDLE, District Judge:

Plaintiff John Wilson filed this action pursuant to 42 U.S.C. § 1983 against the Warden of Menard Correctional Center, Jeff Hutchison. Plaintiff claims that he was forced to perform oral sex on an unknown person by an assistant warden of Menard in retaliation for his crime. (Doc. 1). Plaintiff requests “help.” (Doc. 1, p. 1).

On October 6, 2016, this case was opened in the Central District of Illinois without payment of a filing fee or the filing of a Motion and Affidavit to Proceed in District Court Without Prepaying Fees or Costs (“IFP Motion”). The case was transferred to this Court On October 7, 2016. That same day, the Clerk of Court sent Plaintiff a letter (Doc. 4) advising him that he must prepay the filing fee of \$400.00 or file an IFP Motion within thirty (30) days (*i.e.*, by November 7, 2016). The Court entered a notice of impending dismissal on December 14, 2016 because Plaintiff had not paid the filing fee or moved to proceed IFP. (Doc. 7). That Order warned Plaintiff that failure to comply with the Order would result in the dismissal of his case. (Doc. 7).

On December 28, 2016, Plaintiff filed a Motion for a Temporary Restraining Order (“TRO”) alleging that he had been harassed and beaten since filing this case. (Doc. 9). Plaintiff

requested relief against “sergeants, inmate workers, correctional officers, and wardens at the Menard Correctional Center.” (Doc. 9, p. 2). Plaintiff’s request for a temporary restraining order would be denied because he has requested relief against people who are not currently parties to this case and Plaintiff also continues to allege that he has been retaliated against for filing a Complaint whose identity is unknown.

However, since filing his request for a TRO, Plaintiff has filed another motion requesting to dismiss his case. (Doc. 10). In support of that motion, Plaintiff alleges that he is mentally ill and never intended to file a lawsuit. Plaintiff also continues to allege that he has been retaliated against for filing a Complaint. (Doc. 10, pp. 1-2).

Pursuant to Fed. R. Civ. P. 41(a), “a plaintiff may dismiss an action without a court order by filing: i) a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment.” Here, Plaintiff is within his rights to request a dismissal without prejudice, as defendant has not been served and no prejudice accrues to him. The Court therefore **GRANTS** Plaintiff’s motion requesting dismissal. (Doc. 10). Plaintiff’s request for a temporary restraining order is **MOOT** as Plaintiff has no entitlement to that relief in the absence of a case or controversy. (Doc. 9). The case is **DISMISSED without prejudice**.

IT IS SO ORDERED.

DATED: January 4, 2017.

s/ STACIM. YANDLE
United States District Judge