

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

<p>DAVID JONES, #Y13663,</p> <p style="text-align: center;">Plaintiff,</p> <p>vs.</p> <p>DELSLIE ROWCLIFFE, and CRAIG FOSTER,</p> <p style="text-align: center;">Defendants.</p>	<p>)</p>	<p>Case No. 17-cv-00223-NJR</p>
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MEMORANDUM AND ORDER

ROSENSTENGEL, District Judge:

Plaintiff David Jones, an inmate who is currently incarcerated at Vandalia Correctional Center, filed this civil rights action pursuant to 42 U.S.C. § 1983. In the Complaint, Plaintiff alleges that he was denied the opportunity for work release by Vandalia’s warden on September 30, 2016. (Doc. 1, pp. 5-7). He requests a hearing on the matter and monetary damages. (Doc. 1, pp. 7-8). The Complaint currently awaits preliminary review under 28 U.S.C. § 1915A. At the time he filed this action, Plaintiff also filed a Motion for Leave to Proceed *in forma pauperis* (Doc. 2) and a Motion to Appoint Counsel (Doc. 3), both of which are pending.

One day after filing his Complaint (Doc. 1), Plaintiff filed a Motion to Withdraw Complaint (Doc. 5). In the motion, Plaintiff explained that he no longer wishes to take legal action because the “issue has been resolved.” (Doc. 5, p. 1).

Plaintiff’s obligation to pay the filing fee for this action was incurred at the time the action was filed, and a filing fee of \$400.00¹ remains due and payable whether or not the action is

¹ Effective May 1, 2013, the filing fee for a civil case increased from \$350.00 to \$400.00, by the addition of a new \$50.00 administrative fee for filing a civil action, suit, or proceeding in a district court. *See* Judicial Conference Schedule of Fees—District Court Miscellaneous Fee Schedule, 28 U.S.C. § 1914, No. 14. A litigant who is granted IFP status, however, is exempt from paying the new \$50.00 fee.

voluntarily dismissed. *See* 28 U.S.C. § 1915(b)(1); *Lucien v. Jockisch*, 133 F.3d 464, 467 (7th Cir. 1998). In light of Plaintiff's timely request to voluntarily dismiss the case before the Complaint was screened under 28 U.S.C. § 1915A, however, the Court will not assess an additional filing fee for the next civil rights action Plaintiff chooses to file in this District. But in order to bring a new action without incurring an additional filing fee, Plaintiff will be required to file a copy of this Order with his complaint in the new case.

IT IS HEREBY ORDERED that Plaintiff's Motion to Withdraw Complaint (Doc. 5) is **GRANTED**, and this action is **DISMISSED without prejudice**. *See* FED. R. CIV. P. 41(a)(1)(A)(i). This dismissal shall *not* count as one of Plaintiff's allotted "strikes" under 28 U.S.C. § 1915(g).

IT IS ORDERED that Plaintiff's Motion to Appoint Counsel (Doc. 3) is **DENIED as moot**.

IT IS ORDERED that Plaintiff's Motion for Leave to Proceed *in forma pauperis* (Doc. 3) will be addressed in a separate Order of the Court.

IT IS ALSO ORDERED that Plaintiff's obligation to pay the filing fee for this action survives dismissal of this case. The filing fee for the next action that Plaintiff files pursuant to 42 U.S.C. § 1983 in the Southern District of Illinois shall be **WAIVED**, on the condition that Plaintiff also files a copy of this Order with the complaint.

The Clerk's Office is **DIRECTED** to close this case and enter a judgment accordingly.

IT IS SO ORDERED.

DATED: April 3, 2017



NANCY J. ROSENSTENGEL
United States District Judge