UNITED STATES DISTRICT COURT EASTERN DISTRICT OF KENTUCKY SOUTHERN DIVISION PIKEVILLE

PHILLIPPE` L. SMITH,)	
Plaintiff,)	Civil Action No. 08-218-ART
v.)	JUDGMENT
HARLEY LAPPIN, et al.,)	JUDGMENT
Defendants.)	
)	
	*** *** ***	***

In accordance with the Memorandum Opinion and Order entered contemporaneously with this Judgment, and pursuant to Rule 58 of the Federal Rules of Civil Procedure, it is hereby **ORDERED AND ADJUDGED** as follows:

- (1) Plaintiff Phillippe' L. Smith, who is confined in the United States Penitentiary-Big Sandy ("USP-Big Sandy"), which is located in Inez, Kentucky, has filed a prisoner *pro se* civil rights action under 28 U.S.C. §1331. In his complaint, the plaintiff asserts claims pursuant to the doctrine announced in *Bivens v. Six Unknown Federal Narcotics Agents*, 430 U.S. 388 (1971), as well as claims falling under the Federal Tort Claims Act ("FTCA"), 28 U.S.C. §§ 1346(b), 2671-2680.
- (2) Plaintiff Smith has named the following defendants: (A) Harley Lappin, Director of the Bureau of Prisons ("BOP"); (B) "Viaz," whom the plaintiff identifies as "Correctional Acting Captain"; (C) "Klute," whom the plaintiff identifies as

- "Correctional Officer"; (D) Lt. Perrin, whom the plaintiff identifies as "Correctional Lieutenant"; and; (E) "Unknown Correctional Associate Warden."
- (3) The plaintiff's *Bivens* claims are **DISMISSED WITHOUT PREJUDICE**.
- (4) Judgment is **ENTERED** in favor of the named defendants with respect to the plaintiff's FTCA claims, and those claims are **DISMISSED WITH**PREJUDICE.
- (5) This is a FINAL and APPEALABLE ORDER and there is no just cause for delay.
- (6) The Court certifies that any appeal would not be taken in good faith. 28 U.S.C.§ 1915(a)(3).
- (7) This matter is **STRICKEN** from the active docket.

This the 29th day of September, 2009.

PROBLEM DISTRICT OF WHITE

Signed By:

Amul R. Thapar AT

United States District Judge