

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF KENTUCKY  
AT PADUCAH  
CIVIL ACTION NO. 5:08CV-P10-R**

**TIMOTHY D. ROUSE**

**PLAINTIFF**

**v.**

**KENTUCKY DEPARTMENT OF CORRECTIONS<sup>1</sup>**

**DEFENDANT**

**MEMORANDUM AND ORDER**

This matter is before the Court on Plaintiff's motion to dismiss this case, advising that he no longer wishes to prosecute this action (DN 6). Under the Federal Rules of Civil Procedure, a plaintiff may voluntarily dismiss an action by filing "a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment." Fed. R. Civ. P. 41(a)(1)(A)(i). Since no answer or motion for summary judgment has been filed, **IT IS ORDERED** that the motion to dismiss (DN 6) is **GRANTED**. The Court will dismiss the action by separate order.

Dismissal of this action, however, does not relieve Plaintiff of his responsibility to pay the entire fee. Under the Prison Litigation Reform Act ("PLRA"), the obligation to pay the filing fee attaches when a prisoner "brings a civil action." 28 U.S.C. § 1915(b)(1) ("[I]f a prisoner brings a civil action . . . in forma pauperis, the prisoner shall be required to pay the full amount of a filing fee."). "[T]he subsequent dismissal of the action, even if voluntary, does not negate that obligation." *In re Alea*, 286 F.3d 378, 381 (6th Cir. 2002) (citing *McGore v. Wrigglesworth*, 114 F.3d 601, 607 (6th Cir. 1997)).

---

<sup>1</sup>Plaintiff actually sues "Kentucky Department of Correctional," but the Court presumes that Plaintiff meant to sue the "Kentucky Department of Corrections."

Accordingly, **the Court's August 21, 2008, Order requiring Plaintiff to pay the entire \$350.00 filing fee in installments (DN 4) shall remain in full force and effect.**

Date:

cc: Plaintiff, *pro se*  
General Counsel, Justice & Public Safety Cabinet, Office of Legal Counsel  
KSP, Attn: Inmate Accts, P.O. Box 5128, Eddyville, KY 42038  
4413.005