

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
MONROE DIVISION**

**NAFESSA H. NAYLOR**

**CIVIL ACTION NO. 16-0817**

**VERSUS**

**JUDGE ROBERT G. JAMES**

**LEE HARRELL, ET AL.**

**MAG. JUDGE KAREN L. HAYES**

**RULING**

Pending before the Court are Defendants Attorney General Jeff Landry, Judge Terry Doughty, State Trooper Daniel Grisson, James Berry, Michael Wilson, James Adcock and Lt. Terry Parrish's (collectively, "Defendants") four motions to dismiss [Doc. Nos. 12, 15, 17, & 19] and Plaintiff Nafeesa Naylor's ("Naylor") "Motion Requesting Voluntary Dismissal Without Prejudice." [Doc. No. 32] .

On December 22, 2016, Magistrate Judge Karen L. Hayes issued a Report and Recommendation [Doc. No. 27], recommending that the Court grant Defendants' motions to dismiss and dismiss all of Plaintiff's claims with prejudice. Neither party filed an objection to her Report and Recommendation. On December 30, 2016, Plaintiff filed a "Motion Requesting Extension of Time to File Objection to the Magistrate Judge Karen L. Hayes Report and Recommendation, and Amend the Plaintiff Original Petition". [Doc. No. 29]. The Court granted Plaintiff an extension of time until January 26, 2017, to file objections to the report and recommendation. [Doc. No. 31]. Further, the Court ordered that "Plaintiff may file a motion for leave to amend her Complaint no later than January 26, 2017." *Id.*

On January 26, 2017, Naylor filed a voluntary motion to dismiss without prejudice. [Doc. No. 32]. On January 27, 2017, Defendant James Berry filed a response [Doc. No. 33] to Naylor's

motion to dismiss. On January 30, 2017, Defendant Terry Parrish filed a response [Doc. No. 34] to Naylor's motion to dismiss.

First, the Court finds that Plaintiff is not entitled to voluntarily dismiss her action. The right to voluntarily dismiss without prejudice is not absolute. Rather, dismissal on Motion under Rule 41(a)(2) is within the sound discretion of the court . . . ." *LeCompte v. Mr. Chip, Inc.*, 528 F.2d 601, 604 (5th Cir. 1976). "The primary purpose in entrusting dismissal to the supervision of the court under Rule 41(a)(2) is to protect the non-movant from unfair treatment." *Ikospentakis v. Thalassic S.S. Agency*, 915 F.2d 176, 179 (5th Cir. 1990). Generally, dismissal should be allowed except where the defendant "will suffer some plain legal prejudice other than the mere prospect of a second lawsuit." *Holiday Queen Land Corp. v. Baker*, 489 F.2d 1031, 1032 (5th Cir. 1974) (quoting *Durham v. Fla. E. Coast Ry. Co.*, 385 F.2d 366 (5th Cir. 1967)).

In this case, the Court finds that dismissal without prejudice should not be permitted at this stage of the litigation. The Court already provided Plaintiff with an extension of time to file objections to the Report and Recommendation and an opportunity to amend her complaint. [Doc. No. 31]. She did neither. Instead, Plaintiff allowed the deadline to pass and filed the instant motion to dismiss without prejudice. As Defendant James Berry further points out, Plaintiff has been awarded additional opportunities to pursue her claim, and Defendants have been subjected to considerable time and expense in defending this matter. [Doc. No. 33, p. 2]. Thus, under these circumstances, the Court hereby DENIES Naylor's motion to dismiss her lawsuit without prejudice.

Having determined that Naylor should not be allowed to voluntarily dismiss her lawsuit, the Court has reviewed the outstanding Report and Recommendation of the Magistrate Judge. The Court finds that the Report and Recommendation is supported by the law and the record in this matter and,

therefore, the Report and Recommendation is ADOPTED.

The motions to dismiss for failure to state a claim for which relief can be granted [Doc. Nos. 12, 15, 17, & 19] filed by Defendants Attorney General Jeff Landry, Judge Terry Doughty, State Trooper Daniel Grisson, James Berry, Michael Wilson, James Adcock and Lt. Terry Parrish are GRANTED, and Naylor's claims against these defendants are hereby DISMISSED WITH PREJUDICE. Plaintiff's claims against Defendants Lucille Walker, Dewey Allen, William Scott Hunt, and Lee Harrell are DISMISSED WITH PREJUDICE. Plaintiff's ineffective assistance of counsel claim is hereby DISMISSED WITH PREJUDICE.

MONROE, LOUISIANA, this 31st day of January, 2017.

  
ROBERT G. JAMES  
UNITED STATES DISTRICT JUDGE