

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE  
COLUMBIA DIVISION**

<b>TAMIR T. CLARK</b>	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>Civil No. 1:17-cv-00015</b>
	)	<b>Chief Judge Crenshaw</b>
<b>DANNY DODD, ET AL</b>	)	<b>Magistrate Judge Frensley</b>
<b>Defendants.</b>	)	

**REPORT AND RECOMMENDATION**

Pending before the Court is pro se prisoner Plaintiff's Motion for Relief from Order Pursuant to Rule 60(B)(1) of the F.R.Civ.P. Docket No. 12. The Motion seeks relief from the Court's Memorandum (Docket No. 10) wherein the Court reviewed the action pursuant to the Prison Litigation Reform Act (PLRA) and concluded that the complaint states viable First Amendment and RLUIPA claims against Defendant Dodd as well as viable Eighth Amendment Claims against Defendants Buttram and Deatherage. For the reasons stated herein, the undersigned recommends that Plaintiff's Motion be granted and that the civil action be dismissed without prejudice.

In support of his Motion, Plaintiff asserts the following:

The plaintiff asserts that the courts have mistakenly took the plaintiff's *criminal complaint* as a civil suit. The plaintiff does not wish to pursue a civil action against defendants but clearly stated in the complaint that it's an "**Application to testify before the Magistrate regarding felony crimes.**"

Docket No. 12, p. 1. (emphasis in original)

The Plaintiff is absolutely clear that he does not wish to pursue a civil action. He has not taken any action to secure service of process and has not returned completed service packets as required by this court's previous order. Docket No. 11. To the extent that the Plaintiff wishes to pursue criminal action against the Defendants, this lawsuit is not the appropriate vehicle to do so.

To the extent that the Plaintiff believes that crimes were committed he should bring those matters to the attention of the United States Attorney or other appropriate law enforcement. However, this action is not the appropriate vehicle for pursuing criminal prosecution of the Defendants.

Because the Plaintiff has clearly stated that he “does not wish to pursue a civil action against defendants” the undersigned interprets this as a motion to dismiss the civil claims in this action. Therefore, the undersigned recommends that Plaintiff’s Motion for Relief from Order (Docket No. 12) be GRANTED and that this action be dismissed without prejudice.

Under Rule 72(b) of the Federal Rules of Civil Procedure, any party has ten (10) days from receipt of this Report and Recommendation in which to file any written objections to this Recommendation with the District Court. Any party opposing said objections shall have ten (10) days from receipt of any objections filed in this Report in which to file any response to said objections. Failure to file specific objections within ten (10) days of receipt of this Report and Recommendation can constitute a waiver of further appeal of this Recommendation. *Thomas v. Arn*, 474 U.S. 140, 106 S.Ct. 466, 88 L.Ed. 2d 435 (1985), *reh’g denied*, 474 U.S. 1111 (1986).



**JEFFERY S. FRENSLEY**  
**U. S. District Magistrate Judge**