

FIDEL DAVIS	§	
v.	§	CIVIL ACTION NO. 5:15cv48
C. PHILLIPS, ET AL.	§	

Phillips should be granted. *See Carter v. United States*, 547 F.2d 258, 259 (5th Cir. 1977) (plaintiff has absolute right to dismiss his complaint under Rule 41(a), Fed. R. Civ. P., prior to the filing of an answer or motion for summary judgment); *Thomas v. Phillips*, 83 F.App'x 661, 2003 WL 22965565 (5th Cir., December 17, 2003) (citing *Carter*). It is accordingly


ORDERED the Plaintiff's request for voluntary dismissal of his claims against Officer Phillips (docket no. 84) is **GRANTED**. It is further

ORDERED the claims against Officer Phillips are **DISMISSED WITHOUT PREJUDICE** on the Plaintiff's motion. Because these are the last remaining claims in the lawsuit, it is further

ORDERED the above-styled civil action is **DISMISSED** without prejudice as to Officer Phillips and **DISMISSED** with prejudice for purposes of proceeding *in forma pauperis* for failure to state a claim upon which relief may be granted as to the Defendants Warden Calfee and Dr. Stanley, as stated in the Court's previous order of partial dismissal (docket no. 73). Finally, it is

ORDERED any and all motions which may be pending in this civil action are hereby **DENIED**.

So ORDERED and SIGNED this 16th day of October, 2017.



RODNEY GILSTRAP
UNITED STATES DISTRICT JUDGE