

HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

HILLARY WALLS-STEWART,

Plaintiff,

v.

ERIN LYSTAD, et al.,

Defendants.

CASE NO. C16-5747-RBL

ORDER GRANTING PLAINTIFF'S
MOTION FOR DISMISSAL

DKT. #4

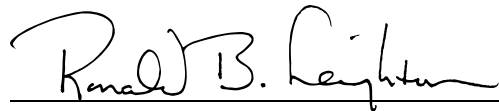
THIS MATTER is before the Court on Plaintiff Hillary Walls-Stewart's Voluntary Motion for Dismissal [Dkt. #4]. Walls-Stewart, who is incarcerated at Stafford Creek Corrections Center, alleges Defendants have not adequately treated her pain caused by a fractured screw in her foot in violation of her Eighth Amendment rights.

The Plaintiff may dismiss an action without a court order by filing a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment. *See Fed. R. Civ. Pro. 41(a)(1)(A)(i)*. Such a dismissal is without prejudice unless the plaintiff has previously dismissed an action involving a similar claim, in which case the dismissal operates as an adjudication on the merits. *See id.* at 41(a)(1)(B).

1 Defendants have not appeared. Walls-Stewart has brought many actions (Case Nos.:
2 3:03-CV-5470-RJB, 3:12-CV-5206, 3:12-CV-5381-RBL, 3:12-CV-5468-BHS, 3:12-CV-5684-
3 BHS-DWC, 2:13-CV-1549, 2:13-CV-1592-RAJ) but none involving this claim. Her Motion for
4 Dismissal [Dkt. #4] is GRANTED. Her claims are DISMISSED without prejudice. Magistrate
5 Judge David W. Christel's Report & Recommendation [Dkt. #3], noted for September 30, 2016
6 and denying Plaintiff's Motion to Proceed *in Forma Pauperis*, is MOOT. The Court therefore
7 DECLINES to adopt it.

8 IT IS SO ORDERED.

9 Dated this 19th day of September, 2016.

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12 Ronald B. Leighton
13 United States District Judge
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