

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

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|-------------------------------|---|-----------------------------------|
| NEDOLANDEZ SANTOS, #140 896, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | CIVIL ACTION NO.: 2:12-CV-718-TFM |
| |) | [WO] |
| DR. DARBOUZE, <i>et al.</i> , |) | |
| |) | |
| Defendants. |) | |

MEMORANDUM OPINION AND ORDER

Before the court is Plaintiff’s *Motion to Dismiss Claim Without Prejudice*. Upon review of this pleading, the court concludes that Plaintiff requests voluntary dismissal of this action without prejudice pursuant to Rule 41(a), *Federal Rules of Civil Procedure*. Upon consideration of Plaintiff’s motion to dismiss, the court concludes that the motion is due to be granted. Furthermore, the court concludes that this case shall be dismissed without prejudice. *See* Rule 41(a)(2), *Federal Rules of Civil Procedure*.

Dismissal without prejudice pursuant to Rule 41(a)(2) at the insistence of Plaintiff is committed to the sound discretion of this court, and absent some plain legal prejudice to Defendants, denial of the dismissal constitutes an abuse of this court's discretion. *McCants v. Ford Motor Company, Inc.*, 781 F.2d 855 (11th Cir. 1986). Simple litigation costs, inconvenience to Defendants, and the prospect of a second or subsequent lawsuit do not constitute clear legal prejudice. *Id.* *See also* *Durham v. Florida East Coast Railway Company*, 385 F.2d 366 (5th Cir. 1967).

The court has carefully reviewed the file in this case and determined that even if Defendants were given an opportunity to file a response to Plaintiff's motion to dismiss, they would not be able to demonstrate the existence of clear legal prejudice. Consequently, the court concludes that this case shall be dismissed without prejudice on the motion of Plaintiff.

In light of the foregoing, it is ORDERED that:

1. Plaintiff's Motion to Dismiss (*Doc. No. 60*) is GRANTED.
2. This case is DISMISSED without prejudice.
3. No costs are taxed herein.

Done, this 13th day of February 2013.

/s/ Terry F. Moorer
TERRY F. MOORER
UNITED STATES MAGISTRATE JUDGE