

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

KENNETH WAYNE BARNETT,)	
)	
Plaintiff,)	
)	
v.)	
)	
The GOP,)	CASE NO. 2:16-CV-638-WKW
<i>also known as</i>)	(WO)
The Grand Old Party,)	
<i>also known as</i>)	
The Party of Lincoln,)	
<i>also known as</i>)	
The National Republican Party,)	
)	
Defendant.)	

MEMORANDUM OPINION AND ORDER

Before the court is Plaintiff’s October 7, 2016 response (Doc. # 7) to the Magistrate Judge’s September 26, 2016 Order.¹ In the response, Plaintiff gave notice that if, on or before October 21, 2016, the court did not declare null and void the Republican Party’s nomination of Donald Trump as candidate for President of the United States, Plaintiff wished to dismiss this lawsuit. (Doc. # 7.) Defendant was served, but did not answer or otherwise appear. Plaintiff did not seek default judgment or move for a temporary restraining order pursuant to Federal Rule of

¹ Plaintiff filed the document in response to the Magistrate Judge’s September 26, 2016 Order requiring Plaintiff to “indicate if he intends to follow up on service on the defendant or whether he wishes to voluntarily dismiss this lawsuit pursuant to Fed. R. Civ. P 41(a)(1).” (Doc. # 6 at 2.)

Civil Procedure 65(b). Because the case was not in a procedural posture to allow for a ruling, no ruling was issued as to Plaintiff's requested relief.

Accordingly, the court construes Plaintiff's response to the Magistrate Judge's order (Doc. # 7) as containing a motion to dismiss pursuant to Rule 41(a)(2) of the Federal Rules of Civil Procedure.²

Further, it is ORDERED that Plaintiff's motion to dismiss (Doc. # 7) is GRANTED, and that all of Plaintiff's claims against Defendant The GOP, also known as The Grand Old Party, also known as The Party of Lincoln, also known as The National Republican Party, are DISMISSED without prejudice, with each party to bear his or its own costs.

DONE this 21st day of November, 2016.

/s/ W. Keith Watkins
CHIEF UNITED STATES DISTRICT JUDGE

² Under Rule 41(a)(1)(i) of the Federal Rules of Civil Procedure, "dismissal is effective immediately upon the filing of a written notice of dismissal, and no subsequent court order is required." *Matthews v. Gaither*, 902 F.2d 877, 880 (11th Cir. 1990). Because Plaintiff's request for dismissal was contingent on future events and clearly was not intended to immediately terminate the case, the request for dismissal is not construed as a notice of dismissal pursuant to Rule 41(a)(1)(i).