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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

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Carlester Sharod Hayes,

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No. CV 11-2043-PHX-RCB (JFM)

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Plaintiff,

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ORDER

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vs.

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Joseph M. Arpaio,

)

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Defendant.

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On October 20, 2011, Plaintiff Carlester Sharod Hayes, who is confined in the Maricopa County Fourth Avenue Jail, filed a *pro se* civil rights Complaint pursuant to 42 U.S.C. § 1983 and an Application to Proceed *In Forma Pauperis*. In a November 17, 2011 Order, the Court granted the Application to Proceed and dismissed the Complaint for failure to state a claim upon which relief can be granted. The Court gave Plaintiff 30 days to file an amended complaint that cured the deficiencies identified in the Order.

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On November 14, 2011, Plaintiff filed a Motion to Dismiss (Doc. 7).

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Under Rule 41(a) of the Federal Rules of Civil Procedure, a party may dismiss an action without an order of the court by filing a notice of dismissal at any time before service of an answer or a motion for summary judgment. The right to voluntarily dismiss an action under these circumstances is absolute. Commercial Space Mgmt. Co., Inc. v. Boeing Co., Inc., 193 F.3d 1074, 1077 (9th Cir. 1999). The Court will therefore grant Plaintiff's Motion to Dismiss.

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IT IS ORDERED:

(1) Plaintiff's Motion to Dismiss (Doc. 7) is **granted**.

(2) This case is **dismissed without prejudice**. The Clerk of Court must enter judgment accordingly.

DATED this 1st day of December, 2011.



Robert C. Broomfield
Senior United States District Judge