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

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Paul Garcia,

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No. CIV 12-2061-PHX-RCB (MHB)

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Plaintiff,

)

**AMENDED ORDER**

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vs.

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Arizona Department of Corrections, et al.,

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Defendants.

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On September 28, 2012, Plaintiff Paul Garcia, 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*. On October 9, 2012, Plaintiff filed a “Motion to Transfer Case to Maricopa County Superior Court.” Plaintiff states that he was “misinformed with all respects to the courts,” and asks that this Court transfer this case to the Maricopa County Superior Court.

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The Court cannot transfer Plaintiff’s case. However, Rule 41(a)(1)(A)(I) of the Federal Rules of Civil Procedure provides that a plaintiff may dismiss an action by filing a “notice of dismissal before the opposing party serves either an answer or a motion for summary judgment.” The Court will treat Plaintiff’s Motion as a motion for voluntary dismissal and will dismiss this action without prejudice. Plaintiff may then re-file his case in the proper court.

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1 **IT IS ORDERED:**

2 (1) Plaintiff's Motion to Transfer case, which the Court construes as a Motion for  
3 Voluntary Dismissal (Doc. 5), is **granted**. This action is **dismissed without prejudice**.

4 (2) Plaintiff's Application to Proceed *In Forma Pauperis* (Doc. 2) is **denied** as  
5 moot.

6 (3) The Clerk of Court must close the case and enter judgment.

7 DATED this 5th day of November, 2012.

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12 Robert C. Broomfield  
13 Senior United States District Judge  
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