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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Donimic T. Brooks,

No. CV 13-330-PHX-RCB (BSB)

10 Plaintiff,

11 vs.

ORDER

12 Correctional Corporation of America, et
13 al.,

14 Defendants.
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16 On February 14, 2013, Plaintiff Donimic T. Brooks, who is confined in the
17 Corrections Corporation of America's Saguaro Correctional Center in Eloy, Arizona,
18 filed a *pro se* civil rights Complaint pursuant to 42 U.S.C. § 1983, a Declaration in
19 Support of Request to Proceed Without Paying Filing Fee ("First Application to
20 Proceed"), a Memorandum in Support, and a Declaration In Lieu of Evidence. On
21 February 28, 2013, he filed an Application to Proceed *In Forma Pauperis* by a Prisoner
22 ("Second Application to Proceed") and a Motion for Appointment of Counsel.

23 In an April 25, 2013 Order, the Court denied the two deficient Applications to
24 Proceed and gave Plaintiff 30 days to either pay the fee or file a complete Application to
25 Proceed. On May 17, 2013, Plaintiff filed another Application to Proceed *In Forma*
26 *Pauperis*. In a September 4, 2013 Order, the Court granted the May 17 Application to
27 Proceed, dismissed the Complaint for failure to state a claim upon which relief could be
28 granted, and denied without prejudice the Motion for Appointment of Counsel. The

1 Court gave Plaintiff 30 days to file an amended complaint that cured the deficiencies
2 identified in the Order.

3 On September 19, 2013, Plaintiff filed a Motion to Drop his Claim (Doc. 13),
4 seeking to “drop [his] claim/suit of the above case.” Under Rule 41(a) of the Federal
5 Rules of Civil Procedure, a party may dismiss an action without an order of the court by
6 filing a notice of dismissal at any time before service of an answer or a motion for
7 summary judgment. The right to voluntarily dismiss an action under these circumstances
8 is absolute. *Commercial Space Mgmt. Co., Inc. v. Boeing Co., Inc.*, 193 F.3d 1074, 1077
9 (9th Cir. 1999). The Court will therefore grant Plaintiff’s Motion to Drop his Claim.

10 **IT IS ORDERED:**

11 (1) Plaintiff’s Motion to Drop his Claim (Doc. 13) is **granted**.

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

14 DATED this 30th day of September, 2013.

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18 Robert C. Broomfield
19 Senior United States District Judge
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