

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 07-cv-00827-BNB

JOSE VEGA,

Plaintiff,

v.

[NO DEFENDANT NAMED],

Defendant.

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

MAY - 9 2007

GREGORY C. LANGHAM
CLERK

ORDER DISMISSING CASE

Plaintiff Jose Vega initiated this action by filing *pro se* a letter to the Court complaining about the conditions of his confinement and seeking action by the Court to remedy those conditions. In an order filed on April 24, 2007, Magistrate Judge Boyd N. Boland ordered Mr. Vega to cure certain deficiencies if he wished to pursue his claims in this action. On May 3, 2007, Mr. Vega filed another letter to the Court stating that he does not wish to pursue his claims in this action at this time.

The Court must construe the May 3 letter liberally because Mr. Vega is representing himself. *See Haines v. Kerner*, 404 U.S. 519, 520-21 (1972); *Hall v. Bellmon*, 935 F.2d 1106, 1110 (10th Cir. 1991). The Court will construe the letter as a notice of voluntary dismissal pursuant to Rule 41(a)(1) of the Federal Rules of Civil Procedure.

Rule 41(a)(1) of the Federal Rules of Civil Procedure provides that "an action may be dismissed by the plaintiff without order of court (i) by filing a notice of dismissal

at any time before service by the adverse party of an answer or of a motion for summary judgment.” No response has been filed by Defendant in this action. A voluntary dismissal pursuant to Rule 41(a)(1) is effective immediately upon the filing of a written notice of dismissal, and no subsequent court order is necessary. **See** J. Moore, Moore's Federal Practice ¶ 41.02(2) (2d ed. 1995); **Hyde Constr. Co. v. Koehring Co.**, 388 F.2d 501, 507 (10th Cir. 1968). The notice closes the file. **See Hyde Constr. Co.**, 388 F.2d at 507. Accordingly, it is

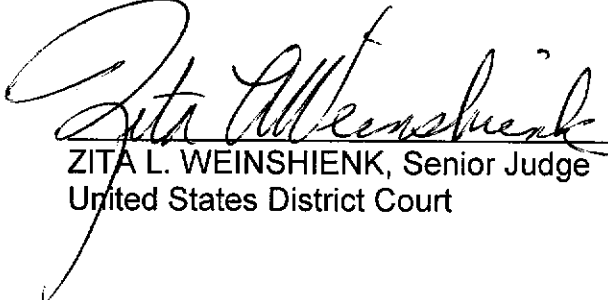
ORDERED that the letter to the Court filed on May 3, 2007, is construed as a notice of voluntary dismissal without prejudice pursuant to Fed. R. Civ. P. 41(a)(1). It is

FURTHER ORDERED that the voluntary dismissal is effective as of May 3, 2006, the date the notice was filed in this action. It is

FURTHER ORDERED that judgment is entered in favor of the unnamed Defendant and against Plaintiff.

DATED at Denver, Colorado, this 9 day of May, 2007.

BY THE COURT:


ZITA L. WEINSHIENK, Senior Judge
United States District Court

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO


CERTIFICATE OF MAILING

Civil Action No. 07-cv-00827-BNB

Jose Vega
Reg. No. 45189-053
ADX - Florence
PO Box 8500
Florence, CO 81226

I hereby certify that I have mailed a copy of the **ORDER** to the above-named individuals on 5/9/07

GREGORY C. LANGHAM, CLERK


By. _____

Deputy Clerk