

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 08-cv-02689-BNB

JOHNNY L. REYNOLDS, # 113703,

Plaintiff,

v.

COLORADO DEPARTMENT OF CORRECTIONS (CDOC) et al., and
OFFICIALS ACTING IN THEIR PERSPECTIVE DUTIES,

Defendants.

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO
MAR 19 2009
GREGORY C. LANGHAM
CLERK

ORDER DISMISSING CASE

At issue is the document titled, "Motion for Court to Dismiss Prisoner Complaint for Refiling at a Later Date," filed by Plaintiff Johnny L. Reynolds on March 11, 2009. The Court must construe the Motion liberally because Plaintiff is a *pro se* litigant. **See *Haines v. Kerner***, 404 U.S. 519, 520-21 (1972); ***Hall v. Bellmon***, 935 F.2d 1106, 1110 (10th Cir. 1991).


Rule 41(a)(1)(A) of the Federal Rules of Civil Procedure provides that "the plaintiff may dismiss an action without a court order by filing: (i) a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment" No answer has been filed by Defendants in this action. Further, a voluntary dismissal under Rule 41(a)(1)(A) 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) (2^d ed. 1995); ***Hyde Constr. Co. v. Koehring Co.***, 388 F.2^d 501, 507 (10th Cir. 1968).

The Court construes the Motion as a Notice of Dismissal filed pursuant to Rule 41(a)(1)(A)(i). The file will be closed as of March 11, 2009, the date the Notice was filed with the Court. **See *Hyde Constr. Co.***, 388 F.2^d at 507. Accordingly, it is

ORDERED that the Motion is construed as a Notice of Dismissal filed pursuant to Fed. R. Civ. P. 41(a)(1)(A)(i) and is effective as of March 11, 2009, the date Plaintiff filed the Notice in this action.

DATED at Denver, Colorado, this 18 day of March, 2009.

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. 08-cv-02689-BNB

Johnny L. Reynolds
Prisoner No. 113703
Limon Correctional Facility
49030 State Hwy. 71 - Unit 6-C
Limon, CO 80826

I hereby certify that I have mailed a copy of the **ORDER** to the above-named individuals on 3/19/08

GREGORY C. LANGHAM, CLERK

By: 

Deputy Clerk