

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 09-cv-00156-BNB

SIRRLOVE REESE WILLIAMS,

Plaintiff,

v.

NURSE MONICA, and  
MAJOR CONNORS,

Defendants.

**FILED**  
UNITED STATES DISTRICT COURT  
DENVER, COLORADO

MAR 05 2009

GREGORY C. LANGHAM  
CLERK

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ORDER DISMISSING CASE

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Plaintiff, Sirrlove Reese Williams, currently is incarcerated at the Denver County Jail. Mr. Williams filed *pro se* a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 and a Prisoner Complaint pursuant to 42 U.S.C. § 1983 (2006) and 28 U.S.C. § 1343(a)(3) (1993).

On January 27, 2009, Magistrate Judge Boyd N. Boland ordered Mr. Williams to cure a deficiency in this case within thirty days. On February 25, 2009, Mr. Williams filed *pro se* a motion titled "Motion to Close Case."

The Court must construe the "Motion to Close Case" 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). However, the Court should not act as a *pro se* litigant's advocate. *See Hall*, 935 F.2d at 1110. For the reasons stated below, the Court will construe liberally the motion to close as a notice of voluntary dismissal pursuant to Rule 41(a)(1) of the Federal Rules of Civil Procedure.

Rule 41(a)(1) 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 response has been filed by Defendants 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 motion titled “Motion to Close Case” that Plaintiff, Sirrlove Reese Williams, submitted to and filed with the Court on February 25, 2009, is construed liberally as a notice of voluntary dismissal pursuant to Fed. R. Civ. P. 41(a)(1). It is

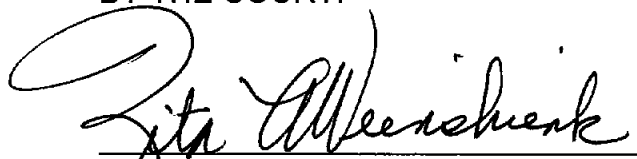
FURTHER ORDERED that the voluntary dismissal is effective as of February 25, 2009, the date the liberally construed notice of dismissal was filed in this action. It is

FURTHER ORDERED that the action is dismissed without prejudice. It is

FURTHER ORDERED that the Prisoner’s Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 is denied as moot.

DATED at Denver, Colorado, this 5 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. 09-cv-00156-BNB

Sirrlove R. Williams  
Prisoner No. 1613915  
Denver County Jail  
P.O. Box 1108  
Denver, CO 80201

I hereby certify that I have mailed a copy of the **ORDER** to the above-named individuals on 3/5/09

GREGORY C. LANGHAM, CLERK

By: 

Deputy Clerk