

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 13-cv-02931-BNB

NICHOLAS J. AURELIO,

Plaintiff,

v.

CITY AND COUNTY OF DENVER,

CHIEF THAN,

CAPTAIN ROMERO,

SERGEANT JORDAN,

SERGEANT DOHERTY,

DEPUTY HERNANDEZ,

DEPUTY SPROCK,

DEPUTY CLEMENTS,

DEPUTY PEREZ,

DEPUTY NESS,

DEPUTY SHAFER,

DEPUTY ARELLANO,

DEPUTY McLAIN, and

MARTINEZ, All Deputies Work for Denver Sheriff's Department at the Denver Detention Center,

Defendants.

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ORDER DISMISSING CASE

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Plaintiff, Nicholas J. Aurelio, currently is detained at the Denver County Jail in Denver, Colorado. On January 22, 2014, Plaintiff submitted a Letter asking that the Court dismiss this action. The Court will construe the Letter as a Notice of Dismissal and dismiss the action for the following reasons.

Rule 41(a)(1)(A) 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 . . . ." Defendant has not filed an answer in

this action. Further, a voluntary dismissal under Rule 41(a)(1)(A)(i) is effective immediately upon the filing of a written notice of dismissal, and no subsequent court order is necessary. See 8-41 James Wm. Moore et al., Moore's Federal Practice § 41.33(6)(a) (3d ed. 1997); *Hyde Constr. Co. v. Koehring Co.*, 388 F.2d 501, 507 (10th Cir. 1968). The case, therefore, will be closed as of January 22, 2014, the date the Notice was filed with the Court. See *Hyde Constr. Co.*, 388 F.2d at 507.

Accordingly, it is

ORDERED that the Notice of Dismissal, filed on January 22, 2014, ECF No. 16, is effective as of January 22, 2014, the date Plaintiff filed the Notice in this action. It is

FURTHER ORDERED that the Complaint and action are dismissed without prejudice.

DATED at Denver, Colorado, this 23<sup>rd</sup> day of January, 2014.

BY THE COURT:

s/Lewis T. Babcock  
LEWIS T. BABCOCK, Senior Judge  
United States District Court