

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 13-cv-03493-BNB

DOMINGO VILLASENOR # 36766-013,

Plaintiff,

v.

GEO GROUP, INC.,
OFFICER SANCHEZ, (GEO Group Inc. Employee), and
U.S. MARSHALLS,

Defendants.

ORDER DISMISSING CASE

Plaintiff, Domingo Villasenor, is detained in the Aurora Detention Center in Aurora, Colorado. He initiated this action by submitting a Prisoner Complaint pursuant to 28 U.S.C. § 1343 and 42 U.S.C. § 1983 and a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915.

On December 30, 2013, Magistrate Judge Boyd N. Boland reviewed Plaintiff's filings and determined that they were deficient. Magistrate Judge Boland directed Mr. Villasenor to submit a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 on the court-approved form, along with a certified copy of his prisoner's trust fund account statement for the six-month period preceding his filing, within thirty days of the December 30 Order. Alternatively, Plaintiff was directed to pay the filing fee.

Mr. Villasenor filed a Letter with the Court (ECF No. 7) on January 9, 2014, stating that he wished to voluntarily dismiss this action without prejudice.

Fed. R. Civ. P. 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 answer or motion for summary judgment has been filed by Defendants in this action. Further, a voluntary dismissal under 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 motion, therefore, closes the file as of December 18, 2013. See *Hyde Constr. Co.*, 388 F.2d at 507. Accordingly, it is

ORDERED that the action is dismissed pursuant to Fed. R. Civ. P. 41(a)(1). It is FURTHER ORDERED that the voluntary dismissal is without prejudice and is effective as of January 9, 2014, the date Plaintiff filed the Letter stating that he wished to withdraw his Complaint in this action.

DATED at Denver, Colorado, this 16th day of January, 2014.

BY THE COURT:

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