

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

CODY MCCLAIN,

Plaintiff,

v.

Case No.: 2:15-cv-594-FtM-38NPM

FNU KUBIK,

Defendant.

OPINION AND ORDER¹

Before the Court is pro se Plaintiff's letter advising the Court that he wishes "to drop my Civil Rights Complaint against FNU Kubik due to lack of legal knowledge." ([Doc. 71 at 1](#)). Plaintiff, who is incarcerated and has pending an Amended Civil Rights Complaint alleging deliberate indifference to dental care (see [Doc. 41](#)), apparently seeks to voluntarily dismiss this action.

Prior to an answer or motion for summary judgment by the opposing party or upon stipulation, a party may voluntarily dismiss an action without a court order. [Fed. R. Civ. P. 41\(a\)\(1\)\(A\)](#). Otherwise, an action may be dismissed upon the plaintiff's request by court order. [Fed. R. Civ. P. 41\(a\)\(2\)](#). Because Defendant Kubik has filed an Answer ([Doc. 66](#)), the Court construes the letter as a motion brought pursuant to [Fed. R. Civ. P.](#)

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[41\(a\)\(2\)](#). On August 9, 2019, Defendant Kubik filed a Notice Regarding Motion for Summary Judgment Deadline and Plaintiff's Voluntary Dismissal. ([Doc. 72](#)). Defendant Kubik advises the Court that due to Plaintiff's notice of voluntary dismissal he will not be filing a motion for summary judgment by the August 15, 2019 deadline. ([Doc. 72 at 2, ¶ 8](#)). Consequently, it appears that Defendant Kubik has no opposition to the Court granting Plaintiff's motion to voluntarily dismiss this action.

Accordingly, it is now

ORDERED:

Plaintiff's letter ([Doc.71](#)) construed as a motion pursuant to [Fed. R. Civ. P. 41\(a\)\(2\)](#) is **GRANTED** and the Clerk shall enter judgment dismissing this case **without prejudice**, terminate any pending motions and deadlines, and close this case.

DONE and **ORDERED** in Fort Myers, Florida this 26th day of August, 2019.


SHERI POLSTER CHAPPELL
UNITED STATES DISTRICT JUDGE

SA: FTMP-1
Copies: All Parties of Record