IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF ILLINOIS

TERRY C. JOHNSON,)	
Plaintiff,)	
vs.)	CIVIL NO. 09-cv-420-MJR
JOSE A. DELGADO, et al.,)	
Defendants.)	

MEMORANDUM AND ORDER

REAGAN, District Judge:

This matter is before the Court on Plaintiff's motion to voluntarily dismiss his complaint. *See* (Doc. 30).

On June 11, 2010, the Court revoked Plaintiff's *pauper* status because he was prohibited from proceed *in forma pauperis* under the provisions of 28 U.S.C. § 1915(g). Accordingly, Plaintiff was directed to pay the remaining balance of th filing fee (in this case \$335.48) within fifteen days.

The Order stated, however, that if Plaintiff failed to pay the remainder of the filing fee (\$335.48) within the time specified, then this case would be dismissed, but, the dismissal would be without prejudice. *Harris v. City of New York*, __F.3d at ___, 2010 WL 2179151 *5 (2nd Cir. June 2, 2010).

Thus, Plaintiff had two options if he wished to pursue his claims. The first option was to pay the remaining balance of the filing fee for this case (\$335.48) and continue with it uninterrupted. The second option was to not pay the remaining balance of the filing fee for this case, suffer a dismissal of it (without prejudice), and then refile his complaint as a new civil

action seeking leave to proceed in forma pauperis. The Court warned Plaintiff, however, that if

he pursued the second option and this case was dismissed, he might face additional barriers to

refiling his claims. For example, the future case may be barred by the applicable statute of

limitations.

In the instant motion, Plaintiff informs the Court that he is unable to pay the remainder of

the filing fee. Therefore, because the Court will dismiss his complaint anyway, he wishes to

voluntarily dismiss it.

DISPOSITION

IT IS HEREBY ORDERED that, pursuant to Rule 41(a)(2) of the Federal Rules of

Civil Procedure, Plaintiff's motion to dismiss (Doc. 30) is **GRANTED** and this case is

DISMISSED without prejudice. All pending motions are **DENIED** as moot..

IT IS SO ORDERED.

DATED this 6th day of July, 2010.

s/ Michael J. Reagan

MICHAEL J. REAGAN

United States District Judge

2