

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ILLINOIS

DONNA K. and FRANK T. PEARSON,

Plaintiffs,

v.

HSBC BANK, *et al.*,

Defendants.

Case No. 10-cv-959-JPG

MEMORANDUM AND ORDER

This matter comes before the Court on Plaintiffs Donna and Frank Pearson's Motion to Voluntarily Dismiss (Doc. 40), which the Court construes as a notice of voluntary dismissal without prejudice. Defendants Cumberland County Sheriff and Cumberland County Sheriff's Office filed a Response (Doc. 41) thereto, which consents to the relief sought by said notice.

The Court is of the understanding that the Pearsons have voluntarily dismissed their interlocutory appeal, *see* Doc. 43; therefore, the Court once again has jurisdiction over this case. With respect to the Pearsons' notice of voluntary dismissal, the Court notes that a plaintiff has an absolute right to dismiss an action against an adverse party at any time before said party serves either an answer or a motion for summary judgment, whichever first occurs. Fed. R. Civ. P. 41(a)(1)(A)(i).

Here, Defendants have yet to file either an answer or a motion for summary judgment. As such, the Court acknowledges that this matter is at an end and **DIRECTS** the Clerk of Court to close the case file, whereby the Court **DENIES as moot** all pending

motions.

IT IS SO ORDERED.

DATED: February 7, 2011

s/ J. Phil Gilbert

**J. PHIL GILBERT
DISTRICT JUDGE**