

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

<b>ANDREW C. HRUBY, #S-07587,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>vs.</b>	)	<b>Case No. 13-cv-228-MJR</b>
	)	
<b>S.A. GODINEZ, et al.,</b>	)	
	)	
<b>Defendants.</b>	)	

**MEMORANDUM AND ORDER**

**REAGAN, District Judge:**

This action has been dismissed without prejudice in accordance with Plaintiff’s motion for voluntary dismissal (Doc. 11), construed as a notice of dismissal pursuant to Rule 41(a)(1)(A)(i) of the Federal Rules of Civil Procedure.

Plaintiff’s motion further requests that no filing fee be assessed in this case, because he has not completely exhausted his administrative remedies and does not want to pursue litigation at this time (Doc. 11, pp. 3-4). Plaintiff originally brought this action with a co-Plaintiff, fellow inmate Allan K. Austin, under Case No. 13-cv-84-MJR. After learning of the February 11, 2013, Order at Doc. 9, Plaintiff filed a motion for severance and dismissal in Case No. 13-cv-84 (Doc. 18), requesting “that he be severed from this instant action as a plaintiff” and that Case No. 13-cv-84 be dismissed without prejudice to him or co-Plaintiff Austin. Based on that request for severance, this case was opened and a filing fee was assessed (Doc. 1). However, Plaintiff now states that his earlier motion for severance (Doc. 18 in No. 13-cv-84) was intended to inform the Court that he “wished no further participation in any action concerning this issue at this time” and that he wanted the matter dismissed (Doc. 11, p. 3).

In consideration of the fact that Plaintiff had not received his copy of this Court's order of February 11, 2013 (Doc. 9) at the time he filed his motion for severance, and in accordance with the instructions in that Order allowing Plaintiff to withdraw his claim without being assessed a fee if he did not want to participate in the original case, the Court **GRANTS** Plaintiff's request that no filing fee be assessed in this severed action.

Plaintiff shall not be charged a filing fee for this case. However, should he re-file or seek to reopen this action, the appropriate filing fee shall be assessed at that time.

**IT IS SO ORDERED.**

**DATED: March 18, 2013**

*s/ Michael J. Reagan*  
United States District Judge