

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

MICHAEL NIETO, )  
vs. )  
Plaintiff, )  
vs. )  
S.A. GODINEZ, )  
JASON HART, )  
ROBERT HUGHES, )  
LINDA CARTER, )  
K. BUTLER, )  
BILLIE GREEN, )  
RICHARD RONSOM, )  
JOHN DOES and )  
JANE DOES )  
Defendants. )

## MEMORANDUM AND ORDER

**REAGAN, Chief District Judge:**

Plaintiff Michael Nieto, an inmate in Stateville Correctional Center, originally filed action for deprivations of his constitutional rights pursuant to 42 U.S.C. § 1983 on June 3, 2016. The Complaint was dismissed for failure to state a claim on August 31, 2016 and Plaintiff was directed to file an Amended Complaint no later than October 5, 2016. (Doc. 11). In lieu of filing an Amended Complaint, Plaintiff has filed a motion requesting dismissal, which the Court now takes up. (Doc. 12).

Pursuant to Fed. R. Civ. P. 41(a), "a 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.” Here, Plaintiff is within his rights to request a dismissal without prejudice, as defendants have not been served and no prejudice accrues to them. The Court therefore **GRANTS** Plaintiff’s Motion requesting dismissal. (Doc. 12). Plaintiff’s request for status is **MOOT** as this Order provides a status of the case. (Doc. 10). The case is dismissed without prejudice.

**IT IS SO ORDERED.**

**DATED: October 11, 2016**

s/ MICHAEL J. REAGAN

**U.S. District Judge**