

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
AT LOUISVILLE

BRYAN KEITH TEW

PLAINTIFF

v.

CIVIL ACTION NO. 3:11CV-89-H

TEAMWORKS USA INC. et al.

DEFENDANTS

MEMORANDUM OPINION

Plaintiff filed a *pro se* letter advising that he wishes this action to be dismissed (DN 29). He advises that when he is medically capable of prosecuting the case he “will pick it back up at a later date.”

Under Rule 41(a)(1)(A) of the Federal Rules of Civil Procedure, a plaintiff may dismiss an action without court order by filing “a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment.” No Defendant has filed an answer or a motion for summary judgment. While Defendants have filed motions to dismiss, the filing of such a motion does not affect a plaintiff’s right of voluntary dismissal. *See Aamot v. Kassel*, 1 F.3d 441, 445 (6th Cir. 1993) (finding that a Fed. R. Civ. P. 12(b)(6) motion to dismiss does not defeat a voluntary dismissal).

Upon consideration, the Court considers Plaintiff’s letter to be sufficient notice of his desire to voluntarily dismiss the instant action and, therefore, will dismiss the action by separate Order. The Court, nonetheless, advises the unrepresented Plaintiff that because he voluntarily dismissed the action, the instant action will not be reopened at a later date when he decides to “pick it back up.” Rather, he must file a new action.

Date: May 20, 2011

A handwritten signature in black ink, appearing to read "John G. Heyburn II", is written over a circular official seal of the United States District Court for the Western District of Kentucky.

**John G. Heyburn II, Judge
United States District Court**

cc: Plaintiff, *pro se*
Counsel of record
4412.005