

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

NO. 5:14-CV-454-FL

LAURA LIEBERMAN,)
)
Plaintiff,)
)
v.)
)
ERIC GOINS, in his individual)
capacity; TYLER MCNEILL, in his)
individual capacity; ANITRA)
PEACOCK, in her individual capacity;)
DAPHNE SHEPARD, in her individual)
capacity; COUNTY OF WAYNE,)
NORTH CAROLINA; and CITY OF)
GOLDSBORO,¹)
)
Defendants.)

ORDER

This matter comes before the court on plaintiff’s motion to dismiss with prejudice her claims against defendants Eric Goins, (“Goins”), Tyler McNeill (“McNeill”), and the City of Goldsboro (“Goldsboro”) (DE 44). None of the pertinent defendants responded by the court’s deadline, and the motion is ripe for consideration.

Petitioner seeks voluntary dismissal of this action pursuant to Federal Rule of Civil Procedure 41(a)(1)(A). An action may be dismissed voluntarily by the petitioner without order of the court by filing a notice of dismissal at any time before service by the adverse party of an answer or a motion for summary judgment. See Fed. R. Civ. P. 41(a)(1). Otherwise an action shall not be

¹ The court has constructively amended the caption of this order to reflect only those defendants not terminated by prior order of this court. Defendant Wayne County Office of Emergency Services was dismissed by order entered March 12, 2015.

dismissed on the plaintiff's request except upon an order of the court. See Fed. R. Civ. P. 41(a)(2).

Because defendants Goins, McNeill and Goldsboro have filed an answer, plaintiff's action may only be voluntarily dismissed pursuant to rule 41(a)(2) which permits voluntary dismissal "on terms that the court considers proper." Fed. R. Civ. P. 41(a)(2). A petitioner's motion under Rule 41(a)(2) should not be denied absent substantial prejudice to the defendants. Andes v. Versant Corp., 788 F.2d 1033, 1036 (4th Cir. 1986).

Here, plaintiff seeks voluntary dismissal of this action with prejudice, and there appears no reason that such dismissal would cause substantial prejudice. Accordingly, plaintiff's motion for voluntary dismissal is GRANTED, and her claims against defendants Goins, McNeill, and Goldsboro are DISMISSED with prejudice. Going forward, the caption of the case shall reflect that only defendants Anitra Peacock, Daphne Shepard, and County of Wayne, North Carolina remain.

SO ORDERED, this the 9th day of July, 2015.



LOUISE W. FLANAGAN
United States District Judge