

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:16-cv-151-FDW**

ALFONZO CABALLERO,)	
)	
Plaintiff,)	
)	
vs.)	
)	
PHILLIP BONEY, et al.,)	
)	
Defendants.)	
)	

ORDER

THIS MATTER is before the Court on pro se Plaintiff’s letter, (Doc. No. 29), that is construed as a Motion for Voluntary Dismissal Without Prejudice.

The parties have been provided the opportunity to object to the Court’s characterization of the Letter as a Motion for Voluntary Dismissal Without Prejudice as to Defendants Burke, Mack, McIntosh, Heh, and Boney. (Doc. No. 30). Plaintiff filed a Letter confirming his intent to dismiss the case against Defendants Burke, Mack, McIntosh, Heh, and Boney. (Doc. No. 31). Defense counsel has not objected and the deadline to do so has expired. No legal prejudice to Defendants is apparent. See Gross v. Spies, 133 F.3d 914 (4th Cir. 1998) (as a general rule, a plaintiff’s motion for voluntary dismissal without prejudice under Rule 41(a)(2) should not be denied absent plain legal prejudice to the defendant). Plaintiff’s Letter is therefore construed as a Motion for Voluntary Dismissal Without Prejudice as to Defendants Burke, Mack, McIntosh, Heh, and Boney, and is granted.

IT IS THEREFORE ORDERED that:

1. Plaintiff’s Letter, (Doc. No. 31), is construed as a Motion for Voluntary Dismissal Without Prejudice, and is **GRANTED** as to **Defendants Burke, Mack, McIntosh,**

Heh, and Boney.

2. The Clerk of Court is instructed to terminate this action as to Defendants Burke, Mack, McIntosh, Heh, and Boney.

Signed: February 11, 2019

A handwritten signature in cursive script, reading "Frank D. Whitney", written over a horizontal line.

Frank D. Whitney
Chief United States District Judge

