

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Richmond Division**

**MARK D. SHARP,**

Plaintiff,

v.

Civil Action No. **3:13CV56**

**CORRECT CARE SOLUTIONS, et al.,**

Defendants.

**MEMORANDUM OPINION**

Mark D. Sharp, a Virginia prisoner, filed this action under 42 U.S.C. § 1983. On March 13, 2014, Defendant Correct Care Solutions filed a Motion to Dismiss and an answer. (ECF No. 26.) Defendants Abbassi and Murphy have not been served. On June 19, 2014, Sharp filed a Motion to Dismiss Without Prejudice. (ECF No. 37.) Because Defendants Abbassi and Murphy have filed neither an answer nor a motion for summary judgment, this notice (ECF No. 37) operates to dismiss the action against Defendants Abbassi and Murphy without further action from the Court. Fed. R. Civ. P. 41(A)(1)(i).

Because Defendant Correct Care Solutions already had filed an answer, Federal Rule of Civil Procedure 41(a)(2) governs Sharp's Motion to Dismiss Without Prejudice for Defendant Correct Care Solutions. *See* Fed. R. Civ. P. 41(a)(2) ("Except as provided in Rule 41(a)(1), an action may be dismissed at the plaintiff's request only by court order, on terms that the court considers proper."). "A plaintiff's motion under Rule 41(a)(2) for dismissal without prejudice should not be denied absent substantial prejudice to the defendant." *Andes v. Versant Corp.*, 788 F.2d 1033, 1036 (4th Cir. 1986) (citing *Kenrose Mfg. Co. v. Fred Whitaker Co.*, 512 F.2d 890, 895 (4th Cir. 1972)). Defendant Correct Care Solutions has failed to indicate that it will suffer

substantial prejudice if the Court grants Sharp's motion. Accordingly, the Motion to Dismiss Without Prejudice (ECF No. 37) will be GRANTED. The action will be DISMISSED WITHOUT PREJUDICE. The outstanding motions (ECF Nos. 26, 35) will be DENIED AS MOOT.

An appropriate Order shall issue.

Date: 6/26/14  
Richmond, Virginia

*/s/ J. A. Gibney, Jr.*  
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John A. Gibney, Jr.  
United States District Judge