

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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CHARLES E. DODSON,

ORDER

Petitioner,

04-C-712-C

v.

JOSEPH SCIBANA, Warden of  
the Oxford Federal Correctional  
Institution,

Respondent.  
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On October 1, 2004, I granted petitioner leave to proceed in forma pauperis in this habeas corpus action brought pursuant to 28 U.S.C. § 2241, on the condition that, no later than October 22, 2004, he pay \$4.75 of the \$5.00 filing fee or show cause why he could not do so. Subsequently, petitioner wrote to say that he had arranged with prison officials to pay the ordered amount, but that it might be later than October 22 before the court received the check. Now petitioner has filed a letter postmarked October 29, 2004, in which he asks that his action be dismissed voluntarily. I construe petitioner's request to be a notice of voluntary dismissal pursuant to Fed. R. Civ. P. 41.

Rule 41(a)(1) provides:

. . .an action may be dismissed by the [petitioner] without order of the court (l) by filing a notice of dismissal at any time before service by the adverse party of an answer or of a motion for summary judgment. . . .Unless otherwise stated in the notice of dismissal or stipulation, the dismissal is without prejudice . . . .

In this case, the respondent has not filed a response to the petition. Therefore, petitioner is free to dismiss his case voluntarily, without prejudice to his refiling his petition at a later date.

Accordingly, I accept petitioner's notice of voluntary dismissal, and direct the Clerk of Court to close this file.

Entered this 3rd day of November, 2004.

BY THE COURT:

BARBARA B. CRABB  
District Judge