

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

JEFFREY STEVEN AKRIGHT,

Plaintiff,

v.

SHERIFF DAVID GRAVES;
STEPHEN A. CULLINAN, Doctor;
E. PETERS, Head Nurse; L. BAKER, Nurse;

Defendants.

ORDER

05-C-27-C

Plaintiff Jeffrey Akright has filed a document titled “Motion to Dismiss,” which I construe as a notice of voluntary dismissal pursuant to Fed. R. Civ. P. 41. Rule 41(a)(1) provides:

...an action may be dismissed by the plaintiff without order of the court (1) 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, except that a notice of dismissal operates as an adjudication upon the merits when filed by a plaintiff who has once dismissed in any court of the United States or of any state an action based on or including the same claim.

In this case, the defendants have not yet been served with plaintiff’s complaint. Therefore,

plaintiff is free to dismiss his case voluntarily, without prejudice to his refiling his complaint at a later date.

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

Entered this 1st day of June, 2005.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge