

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

MARK BOGAN,

Petitioner,

v.

BUREAU OF PRISONS,¹

Respondent.

ORDER

06-C-0490-C

Plaintiff Mark Bogan has filed a motion to dismiss this action seeking documents under the Freedom of Information Act. According to plaintiff, he has received enough information to successfully file a § 2255 motion. I construe plaintiff's motion as a notice of voluntary dismissal pursuant to Rule 41, Federal Rules of Civil Procedure.

Rule 41(a)(1) provides:

an action may be dismissed by the plaintiff without order of the

¹ In the caption of his complaint, petitioner names as respondents Priscilla Jones, Administrative Staff Chief of the "Office of Information and Privacy" and Daryl Kosiak, Regional Counsel for the Bureau of Prisons North Central Regional Office. The Freedom of Information Act authorizes suit only against an agency and not against individual officers and governmental employees. See § 552(a)(4)(B). Therefore, I have removed the individual respondents from the caption and substituted as the only respondent the Bureau of Prisons.

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, 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 defendant has not yet answered or moved for summary judgment. Therefore, plaintiff is free to dismiss his lawsuit voluntarily, without prejudice to his refiling his complaint at a later date.

ORDER

I accept plaintiff's notice of voluntary dismissal of this action. The clerk of court is requested to close this case.

Entered this 6th day of February, 2007.

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