

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

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ROGER D. GODWIN,

Petitioner,

v.

NURSE THOMPSON; DR. ALDER;  
SHARON ZUNKER; NURSE NERDUM,

Respondents.  
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ORDER

07-C-321-C

Petitioner Roger D. Godwin has notified the court that he does not wish to prosecute this case at this time and has asked that it be dismissed. I construe petitioner's request to be 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 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 court has not screened petitioner's complaint, respondents have not yet answered or moved for summary judgment. Therefore, petitioner is free to dismiss his lawsuit against defendants voluntarily, without prejudice to his refiling his complaint at a later date.

ORDER

Petitioner's motion for voluntary dismissal is GRANTED. Petitioner's complaint is DISMISSED, without prejudice to petitioner's filing a new lawsuit at a future time. The unpaid balance of petitioner's filing fee is \$349.10; petitioner is obligated to pay this amount in monthly payments as described in 28 U.S.C. § 1915(b)(2).

Entered this 25th day of July, 2007.

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