

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

MARVIN KENNETH SINGLETON,

Petitioner,

v.

CASE NO. 05-3193-RDR

GARY STEED, SHERIFF, and the
UNITED STATES OF AMERICA,

Respondents.

O R D E R

This action is a petition for habeas corpus filed pursuant to 28 U.S.C. § 2241. The petitioner challenges a request for his extradition by the Canadian government, and the matter comes before the court on his pleading captioned as withdrawal of petition (Doc. 34). The court liberally construes the withdrawal as a motion for voluntary dismissal filed pursuant to Rule 41 of the Federal Rules of Civil Procedure.

Because the respondents have filed responsive pleadings, the request for dismissal must be evaluated pursuant to Rule 41(a)(2). Dismissal under that section lies in the discretion of the court and ordinarily will be granted unless the opposing party will suffer legal prejudice. Ohlander v. Larson, 114 F.3d 1531, 1537 (10th Cir. 1997); Clark v. Tansy, 13 F.3d 1407, 1411 (10th Cir. 1993). The court has examined the record and finds

the record has been thoroughly developed by the respondents and that the petitioner has diligently prosecuted this action. The court finds the dismissal sought is appropriate under Rule 41(a)(2) and grants the motion.

IT IS, THEREFORE, BY THE COURT ORDERED petitioner's motion for dismissal (Doc. 34) is granted.

IT IS FURTHER ORDERED the motion of respondent Steed to supplement the response (Doc. 30) is granted.

Copies of this order shall be transmitted to the parties.

IT IS SO ORDERED.

DATED: This 6th day of July, 2006, at Topeka, Kansas.

S/ Richard D. Rogers
RICHARD D. ROGERS
United States District Judge