IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF KANSAS

FRED MITCHELL, Plaintiff, v. **DESERET HEALTH CARE FACILITY, VIA CHRISTI HOSPITALS WICHITA, INC., et al.,** Defendants.	)))))))))))	**Case No. 13-1360-RDR**

O R D E R

Plaintiff commenced this action on September 24, 2013 seeking leave to proceed in forma pauperis. United States Magistrate Judge Gale filed a report and recommendation on September 30, 2013 which recommended that plaintiff be granted in forma pauperis status and that the case be dismissed for lack of jurisdiction. On October 15, 2013, plaintiff filed a "notice of voluntary dismissal without prejudice." No defendant has filed an answer or other response in this matter.

Upon review, the court shall direct that plaintiff be permitted to file this action without payment of the filing fee. The court shall further direct that the action be dismissed without prejudice pursuant to plaintiff's notice of voluntary dismissal and FED.R.CIV.P. 41(a)(1)(A).

IT IS SO ORDERED.

Dated this 28th day of October, 2013, at Topeka, Kansas.

s/Richard D. Rogers
United States District Judge