

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

DALTON JOHN CRAIG,

Plaintiff,

v.

CASE NO. 19-3149-SAC

GEARY COUNTY DETENTION CENTER, et al.,

Defendants.

ORDER

Plaintiff Dalton John Craig is an inmate at the Lansing Correctional Facility in Lansing, Kansas. Plaintiff filed this *pro se* § 1983 action against the Geary County Detention Center and Geary County Sheriff's Office. He is proceeding *in forma pauperis*.

On January 6, 2020, Mr. Craig submitted a letter stating he no longer wants to proceed with his case and asking to have the automatic payments toward the filing fee stopped. Plaintiff states he earns very little and even the small amount that goes toward the filing fee has made it difficult for him to stay in contact with his loved ones. Plaintiff further requests a refund of the amounts he has already paid toward the filing fee.

The Court construes the January 6 letter liberally as a notice of voluntary dismissal pursuant to Rule 41(a)(1) of the Federal Rules of Civil Procedure. Rule 41(a)(1) provides that "the plaintiff may dismiss an action without a court order by filing (i) a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment." No response has been

filed by the defendant in this action. A voluntary dismissal pursuant to Rule 41(a)(1) is effective immediately upon the filing of a written notice of dismissal, and no subsequent court order is necessary. *See Hyde Constr. Co. v. Koehring Co.*, 388 F.2d 501, 507 (10th Cir. 1968). The notice closes the file. *See id.*

IT IS THEREFORE BY THE COURT ORDERED that the motion filed by Plaintiff on January 6, 2020 (ECF No. 5) is **granted** and is construed as a notice of voluntary dismissal pursuant to Fed. R. Civ. P. 41(a)(1). The voluntary dismissal is effective as of January 6, 2020, the date the liberally construed notice of dismissal was filed in this action. This action is **dismissed without prejudice**.

IT IS FURTHER ORDERED that the portion of the Court's order (ECF No. 3) requiring Plaintiff to make monthly payments of 20 percent of the preceding month's income toward the \$350.00 filing fee is **rescinded** going forward. No refund shall be paid to Plaintiff. The clerk of the court shall transmit a copy of this order to the finance office at Lansing Correctional Facility.

IT IS SO ORDERED.

Dated in Topeka, Kansas, on this 5th day of February, 2020.

s/ Sam A. Crow
SAM A. CROW
U. S. Senior District Judge