

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

Rubén Muñoz Terán

Petitioner,

vs.

Case No.: 2:25-cv-01091-KWR-JHR

Todd Lyons, et al.

Respondents.

**MOTION FOR VOLUNTARY DISMISSAL WITHOUT PREJUDICE PURSUANT TO
FED. R. CIV. P. 41(a)(1)(A)(i)**

Petitioner, through undersigned Counsel, respectfully moves this Court to dismiss his Petition for Writ of Habeas Corpus (Doc. No. 1) without prejudice, pursuant to Rule 41(a)(1)(A)(i) of the Federal Rules of Civil Procedure.

Pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i), the plaintiff may dismiss an action without a court order by filing: 1) a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment; or 2) a stipulation of dismissal signed by all parties who have appeared.

Before service by the adverse party of an answer or of a motion for summary judgement, plaintiff has an absolute right to dismiss without prejudice, and no action is required on the part of the court. *Janssen v. Harris*, 321 F.3d 998, 1000 (10th Cir. 2003); Fed.Rules Civ.Proc.Rule 41(a)(1)(A)(i). Dismissal without prejudice should be granted unless the Respondent suffers "plain legal prejudice" as a result. *See Brown v. Baeke*, 413 F.3d 1121, 1123 (10th Cir. 2005).

Respondents in this case have not file an answer or motion to dismiss Petitioner's Petition Under 28 U.S.C. §2241 for a Writ of Habeas Corpus. Respondents will not suffer any prejudice if this motion is granted.

For the foregoing reasons, Petitioner respectfully requests that his petition is voluntarily dismissed without prejudice.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, undersigned counsel, hereby certify that on November 24, 2025, I filed this Motion for Voluntary Dismissal Without Prejudice Pursuant to Fed. R. Civ. P. 41(a)(1)(A) using the CM/ECF system.

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