

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

JOSEPH MALDONADO-PASSAGE

Plaintiff,

vs.

ROSALIND SARGENT-BURNS, IN
HER CAPACITY AS ACTING
PARDON ATTORNEY

Defendant.

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CIV. NO. 4:20-CV-1339-P

NOTICE OF DISMISSAL WITHOUT PREJUDICE

Pursuant to Rule 41(a)(1), Plaintiff, Joseph Madonado-Passage (“Joe Exotic”), hereby voluntarily dismisses all claims asserted in this action, *without prejudice* to Plaintiff’s right to assert any or all of the claims in a future action.

Per Rule 41(a), dismissal is effective automatically upon filing of a notice, without any further action of the Plaintiff or the Court.¹ *See, e.g., Am. Cyanamid Co. v. McGhee*, 317 F.2d 295, 297 (5th Cir. 1963).

In this action, Joe Exotic sought to require the acting United States Pardon Attorney to forward his Pardon Petition and a recommendation to the President, so that the President can exercise his plenary power to grant or deny clemency under the Constitution. Subsequent to the filing of this suit, Joe Exotic has developed a belief that

¹ Because of automatic effect of a notice of dismissal, Joe Exotic believes that this notice renders moot the requirements of the Court’s December 18, and December 21, 2020 Orders [Dkt. 4 & 5]. Nevertheless, out of respect for the Court, Joe Exotic filed an amended complaint (immediately prior to filing this notice), which he believes complies with the Court’s Orders.

the President has received both Joe Exotic's Pardon Petition (which is the petition at issue in this case) and Joe Exotic's subsequent Petition for Commutation (which was accepted by the Pardon Attorney).²

Furthermore, the Office of the Pardon Attorney acknowledged that the President has plenary power to grant clemency with or without the guidance and assistance of Department personnel. Therefore, while this action may not be moot, Joe Exotic has determined that it is unnecessary at this time.

Accordingly, Joe Exotic hereby dismisses this action in its entirety, *without prejudice* to his right to assert any claims in a future action if he determines that his current belief regarding the Pardon Petition is inaccurate or if he otherwise determines it would be appropriate to file a new action.

Respectfully submitted,

Filed December 22, 2020

/s/ Francisco Hernandez, Jr.
Francisco Hernandez, Jr.
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² The public record referenced by the Court in its December 22, 2020 Amended Order relates to the Petition for Commutation of Sentence, which is distinct from the Pardon Petition on which this action was based. The Pardon Petition filed under **PR NO. 7305098 does not appear in the Public Record.** Nevertheless, Joe Exotic now believes the Pardon Petition has been received by the President.

CERTIFICATE OF SERVICE

The defendant has not appeared in this action, but the defendant will be served via first-class mail.

/s/ Francisco Hernandez, Jr. _____