

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION**

ROQUE “ROCKY” DE LA FUENTE
GUERRA,

Plaintiff,

v.

CASE NO. 4:16cv196-RH/CAS

STATE OF FLORIDA and
FLORIDA SECRETARY OF STATE,

Defendant.

_____ /

ORDER OF DISMISSAL

The plaintiff has filed a notice of voluntary dismissal, ECF No. 16. Because the defendant previously served an answer, ECF No. 9, I treat the *notice* of dismissal as a *motion* for dismissal under Federal Rule of Civil Procedure 41(a)(2). In the unlikely event the defendant opposes the motion, it may file a timely motion to alter or amend the judgment that will be entered based on this order.

Dismissal does not moot the defendant’s separate motion for sanctions under Federal Rule of Civil Procedure 11. The defendant gave the required 21-day notice before filing the Rule 11 motion. The plaintiff did not dismiss the complaint

within the 21-day period, but the plaintiff did seek to dismiss a few days later, before substantial additional work was done. And the complaint's substantive legal allegations, if asserted by a proper plaintiff with factual support, would not be frivolous. As a matter of discretion, I deny the Rule 11 motion.

For these reasons,

IT IS ORDERED:

1. The *notice* of voluntary dismissal, ECF No. 16, is deemed a *motion* for voluntary dismissal. The motion is granted.
2. The clerk must enter judgment stating, "This case was resolved by voluntary dismissal. The case is dismissed under Federal Rule of Civil Procedure 41(a)."
3. The motion for sanctions, ECF No. 13, is denied.

SO ORDERED on August 1, 2016.

s/Robert L. Hinkle
United States District Judge