

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

GARRISON S. JOHNSON,

1:07-CV-00179-LJO-SMS-PC

Plaintiff,

ORDER GRANTING PLAINTIFF'S MOTION
TO VOLUNTARILY DISMISS ACTION
(Doc. 21)

v.

ORDER DISMISSING ACTION IN ITS
ENTIRETY WITHOUT PREJUDICE

CALIFORNIA CORRECTIONAL
PEACE OFFICER ASSOCIATION,

ORDER DIRECTING CLERK TO CLOSE FILE

Defendant.

Plaintiff Garrison S. Johnson ("Plaintiff") is a state prisoner proceeding pro se and in forma pauperis in this civil rights action filed pursuant to 42 U.S.C. § 1983. Plaintiff filed the complaint on February 2, 2007.

On January 28, 2008, Plaintiff filed a motion to voluntarily dismiss this action. "[U]nder Rule 41(a)(1)(I), 'a plaintiff has an absolute right to voluntarily dismiss his action prior to service by the defendant of an answer or a motion for summary judgment.'" Commercial Space Mgmt. Co., Inc. v. Boeing Co., Inc., 193 F.3d 1074, 1077 (9th Cir. 1999) (quoting Wilson v. City of San Jose, 111 F.3d 688, 692 (9th Cir. 1997)). "[A] dismissal under Rule 41(a)(1) is effective on filing, no court order is required, the parties are left as though no action had been brought, the defendant can't complain, and the district court lacks jurisdiction to do anything about it." Id. at

1 1078. No defendant has filed an answer or other responsive pleading. Therefore, Plaintiff's
2 motion shall be granted.

3 Accordingly, IT IS HEREBY ORDERED that:

- 4 1. Plaintiff's motion to voluntarily dismiss this action is GRANTED;
5 2. This action is DISMISSED in its entirety without prejudice; and
6 3. The Clerk of the Court is DIRECTED to close the file in this case and adjust the
7 docket to reflect voluntary dismissal of this action pursuant to Rule 41(a).

8 IT IS SO ORDERED.

9 **Dated: February 3, 2008**

/s/ Lawrence J. O'Neill
UNITED STATES DISTRICT JUDGE