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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

EDUARDO OZUNA PARDO,	1:08-cv-00061-GSA-PC
Plaintiff,	ORDER GRANTING PLAINTIFF’S MOTION TO DISMISS ACTION (Doc. 11.)
v.	ORDER DISMISSING ACTION IN ITS ENTIRETY WITHOUT PREJUDICE
FRESNO COUNTY, et al.,	ORDER DIRECTING CLERK TO CLOSE FILE
Defendants.	

Plaintiff Eduardo Ozuna Pardo (“Plaintiff”) is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed the complaint on January 14, 2008. (Doc. 1.) On January 22, 2008, Plaintiff consented to Magistrate Judge jurisdiction pursuant to 28 U.S.C. § 636(c), and no other party has appeared in this action. (Doc. 7.) On June 16, 2009, this case was reassigned to Magistrate Judge Gary S. Austin for all further proceedings, including trial and final judgment. (Doc. 10.)

On July 6, 2009, Plaintiff filed a motion to dismiss this action without prejudice. (Doc. 11.) “[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*

1 v. City of San Jose, 111 F.3d 688, 692 (9th Cir. 1997)). “[A] dismissal under Rule 41(a)(1) is
2 effective on filing, no court order is required, the parties are left as though no action had been
3 brought, the defendant can’t complain, and the district court lacks jurisdiction to do anything
4 about it.” Id. at 1078. No defendant has filed an answer or other responsive pleading.
5 Therefore, Plaintiff’s motion shall be granted.

6 Accordingly, IT IS HEREBY ORDERED that:

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

11
12 IT IS SO ORDERED.

13 Dated: July 9, 2009

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE