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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

BRIAN SCOTT SEEFELDT,

1:08-cv-00337-LJO-GSA-PC

Plaintiff,

ORDER GRANTING PLAINTIFF’S MOTION
TO DISMISS ACTION
(Doc. 16.)

v.

ORDER DISMISSING ACTION IN ITS
ENTIRETY WITHOUT PREJUDICE

CDCR MEDICAL, et al.,

ORDER DIRECTING CLERK TO SEND
PLAINTIFF A COPY OF HIS COMPLAINT
(Doc. 1.)

Defendants.

ORDER DIRECTING CLERK TO CLOSE FILE

_____ /

Plaintiff Brian Scott Seefeldt (“Plaintiff”) is a 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 March 10, 2008.

On January 12, 2009, Plaintiff filed a motion to dismiss his complaint without prejudice. “[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

1 brought, the defendant can't complain, and the district court lacks jurisdiction to do anything
2 about it." Id. at 1078. No defendant has filed an answer or other responsive pleading.
3 Therefore, Plaintiff's motion shall be granted.

4 Plaintiff has requested return of his original complaint. The original complaint belongs to
5 the Court as part of the official record and cannot be returned to plaintiff except under
6 exceptional circumstances, which do not apply here. However, the Court shall direct the Clerk to
7 send plaintiff a copy of the complaint.

8 Accordingly, IT IS HEREBY ORDERED that:

- 9 1. Plaintiff's motion to dismiss the complaint is GRANTED;
- 10 2. This action is DISMISSED in its entirety without prejudice;
- 11 3. The Clerk of Court is DIRECTED to send plaintiff a copy of his complaint filed
12 on March 10, 2008.
- 13 4. The Clerk of the Court is DIRECTED to close the file in this case and adjust the
14 docket to reflect voluntary dismissal of this action pursuant to Rule 41(a).

15 IT IS SO ORDERED.

16 **Dated:** February 2, 2009

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