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**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

REVEREND BECK,

Plaintiff,

v.

DR. L. DILEO, et al.,

Defendants.

CASE NO. 1:10-cv-00599-OWW-GBC PC

ORDER GRANTING PLAINTIFF’S MOTION TO WITHDRAW ACTION, WITHOUT PREJUDICE

(Doc. 15)

ORDER DIRECTING CLERK OF COURT TO CLOSE CASE AND ADJUST DOCKET TO REFLECT VOLUNTARY DISMISSAL

Plaintiff Reverend Beck (“Plaintiff”) is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. This action is currently in the screening stage. On November 23, 2010, the Court issued an order denying Plaintiff’s motion for recusal, motions for joinder of parties, motion for certificate of familiarity, motion for appointment of counsel, and motion for an order compelling discovery. (Doc. 14.) On December 10, 2010, Plaintiff filed a motion seeking to have this action dismissed without prejudice. (Doc. 15.)

“[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 1078. No defendant has filed an answer or other responsive pleading.

1           Accordingly, the Clerk of the Court is HEREBY ORDERED to CLOSE the file in this case  
2 and adjust the docket to reflect voluntary dismissal of this action pursuant to Rule 41(a).

3                       IT IS SO ORDERED.

4 **Dated:** December 30, 2010

/s/ Oliver W. Wanger  
UNITED STATES DISTRICT JUDGE

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