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UNITED STATES DISTRICT COURT

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EASTERN DISTRICT OF CALIFORNIA

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9   BRUCE PATRICK HANEY,   CASE NO. 1:10-cv-01841-LJO-SMS PC

10   Plaintiff,   ORDER GRANTING PLAINTIFF'S REQUEST
                                                   FOR VOLUNTARY DISMISSAL
11   v.
                                                   (ECF No. 18)
12   R. AGUIRRE,

13   Defendant.   ORDER DIRECTING CLERK OF COURT TO
                                                   CLOSE CASE   AND ADJUST DOCKET TO
                                                   REFLECT VOLUNTARY DISMISSAL
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16   Plaintiff Bruce Patrick Haney ("Plaintiff") is a state prisoner proceeding pro se and in forma

17   pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. This action was filed on October

18   6, 2010. On May 17, 2011, Plaintiff filed a motion requesting to withdraw his complaint and

19   proceed in State Court. (ECF No. 18.)

20   "[U]nder Rule 41(a)(1)(I), 'a plaintiff has an absolute right to voluntarily dismiss his action

21   prior to service by the defendant of an answer or a motion for summary judgment.'" Commercial

22   Space Mgmt. Co., Inc. v. Boeing Co., Inc., 193 F.3d 1074, 1077 (9th Cir. 1999) (*quoting* Wilson v.

23   City of San Jose, 111 F.3d 688, 692 (9th Cir. 1997)). "[A] dismissal under Rule 41(a)(1) is effective

24   on filing, no court order is required, the parties are left as though no action had been brought, the

25   defendant can't complain, and the district court lacks jurisdiction to do anything about it." Id. at

26   1078. No defendant has filed an answer or other responsive pleading.

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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) and all

3 pending motions are terminated.

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5 IT IS SO ORDERED.

6 **Dated: May 18, 2011**   **/s/ Lawrence J. O'Neill**
                                              UNITED STATES DISTRICT JUDGE
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