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2 **UNITED STATES DISTRICT COURT**

3 EASTERN DISTRICT OF CALIFORNIA

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5 JASPER WILSON, 1:10-cv-02311-LJO-GBC PC
6 Plaintiff, ORDER GRANTING PLAINTIFF'S MOTION
7 v. FOR VOLUNTARY DISMISSAL
8 K. HARRINGTON, et. al., (Doc. 8)
9 Defendants. ORDER DIRECTING CLERK OF COURT TO
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Jasper Wilson ("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. (Doc. 1.) The complaint in this action was filed on December 13, 2010. (Doc. 1.) On January 21, 2011, Plaintiff filed a motion for voluntary dismissal. (Doc. 8.)

"[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. In this action no defendant has filed an answer or other responsive pleading.

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

Dated: January 25, 2011

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