

**UNITED STATES DISTRICT COURT**  
EASTERN DISTRICT OF CALIFORNIA

JOSEPH A. BROWN,

CASE NO. 1:11-cv-01826-LJO-BAM PC

Plaintiff,

ORDER GRANTING PLAINTIFF’S REQUEST  
FOR VOLUNTARY DISMISSAL (ECF No. 5)

v.

UNITED STATES OF AMERICA, et al.,

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

Defendants.

Plaintiff Joseph A. Brown is a state prisoner proceeding pro se in this civil rights action pursuant to 42 U.S.C. § 1983. This action was filed on October 31, 2011. The complaint was screened and on November 9, 2011, a [findings and recommendation](#) issued recommending the action be dismissed, without leave to amend, for failure to state a claim. On November 16, 2011, Plaintiff filed a [notice of voluntary dismissal](#).

“[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.

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:** November 17, 2011

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