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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

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WAYNE L. PICKERING,
 	
    Plaintiff,
 	
  v.
 	
CALIFORNIA DEPARTMENT OF
CORRECTIONS, et al.,
 	
    Defendants.
	Case No. 1:13-cv-01164-DAD-BAM (PC)
	
	ORDER REGARDING PLAINTIFF'S
	NOTICE OF VOLUNTARY DISMISSAL
	
	(ECF No. 20)
	
	ORDER DIRECTING CLERK OF COURT TO
	CLOSE CASE AND ADJUST DOCKET TO
	REFLECT VOLUNTARY DISMISSAL

   Plaintiff Wayne L. Pickering ("Plaintiff") is a state prisoner proceeding pro se and in

forma pauperis in this civil rights action under 42 U.S.C. § 1983. Plaintiff initiated this action on

July 26, 2013. (ECF No. 1.) On January 3, 2017, Plaintiff filed a notice of voluntary dismissal.

(ECF No. 20.)

   "[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) (quotation and

citation omitted). "[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

been served in this action and no defendant has filed an answer or motion for summary

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1 judgment.[1]

2   Accordingly, the Clerk of the Court is HEREBY DIRECTED to CLOSE the file in this

3 case and adjust the docket to reflect voluntary dismissal of this action without prejudice under

4 Rule 41(a). All pending motions, if any, are terminated.

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6 IT IS SO ORDERED.

7   Dated: **January 17, 2017**   /s/ *Barbara A. McAuliffe*

8   UNITED STATES MAGISTRATE JUDGE

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[1] Plaintiff's motion notes that the CDCR Library ADA clerk should be questioned as to why he filed the complaint, whether he should receive some kind of warning for having done so, and whether Plaintiff may file something regarding that. However, because Plaintiff is dismissing this case, the Court need not address those questions.