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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

EARL SMITH,)	1:14-cv-01308-BAM (PC)
)	
Plaintiff,)	ORDER GRANTING PLAINTIFF’S
)	REQUEST FOR VOLUNTARY DISMISSAL
v.)	(ECF No. 8)
)	
D. GOSS, et al.,)	ORDER DIRECTING CLERK OF COURT
)	TO CLOSE CASE AND ADJUST DOCKET
Defendants.)	TO REFLECT VOLUNTARY DISMISSAL
)	
)	

Plaintiff Earl Smith is a state prisoner proceeding pro se and in forma pauperis in this civil rights action. Plaintiff consented to the jurisdiction of a United States Magistrate Judge on August 28, 2014. (ECF No. 5.)

On March 17, 2016, Plaintiff filed a document entitled “Motion For An Voluntary Dismissal [sic].” Plaintiff indicates that “under Federal Rules of Civil Procedure (41) is requesting a voluntary dismissal of the following case.” (ECF No. 8, p. 1.) The Court construes the motion as one requesting voluntary dismissal of this action pursuant to Federal Rule of Civil Procedure 41(a).

“[U]nder Rule 41(a)(1)(A)(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

1 can't complain, and the district court lacks jurisdiction to do anything about it." Id. at 1078. In
2 this action, no defendant has been served and no defendant has filed an answer or motion for
3 summary judgment.

4 Accordingly, the Clerk of the Court is HEREBY ORDERED to CLOSE the file in this
5 case and adjust the docket to reflect voluntary dismissal of this action without prejudice pursuant
6 to Rule 41(a).

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8 IT IS SO ORDERED.

9 Dated: March 25, 2016

/s/ Barbara A. McAuliffe
10 UNITED STATES MAGISTRATE JUDGE
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