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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

PHILLIP PATINO,)	1:14-cv-02040-BAM (PC)
)	
Plaintiff,)	ORDER GRANTING PLAINTIFF’S
)	REQUEST FOR VOLUNTARY DISMISSAL
v.)	(ECF No. 7)
)	
AUDREY KING, et al.,)	ORDER DIRECTING CLERK OF COURT
)	TO CLOSE CASE AND ADJUST DOCKET
Defendants.)	TO REFLECT VOLUNTARY DISMISSAL
)	
)	

Plaintiff Phillip Patino (“Plaintiff”) is a civil detainee proceeding pro se and in forma pauperis in this civil rights action. Plaintiff initiated this action on December 22, 2014. Plaintiff consented to the jurisdiction of a United States Magistrate Judge. (ECF No. 4.)

On March 19, 2015, the Court screened Plaintiff’s complaint with leave to amend within thirty days. (ECF No. 6.)

On April 9, 2015, Plaintiff filed a document entitled “Motion to Withdraw Complaint Without Prejudice.” Plaintiff requests “dismissal without prejudice.” (ECF No. 7, 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)(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

1 court order is required, the parties are left as though no action had been brought, the defendant
2 can't complain, and the district court lacks jurisdiction to do anything about it." Id. at 1078. In
3 this action, there is no operative complaint on file, no defendant has been served, and no
4 defendant has filed an answer or motion for summary judgment.

5 Accordingly, the Clerk of the Court is HEREBY ORDERED to CLOSE the file in this
6 case and adjust the docket to reflect voluntary dismissal of this action without prejudice pursuant
7 to Rule 41(a). All pending motions, if any, are terminated.

8
9 IT IS SO ORDERED.

10 Dated: April 10, 2015

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