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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ROBERT S. AZEVEDO,

 Plaintiff,

 v.

C. McCABE, et al.,

 Defendants.

Case No. 1:15-cv-00163-SAB-PC

ORDER DIRECTING CLERK OF COURT
TO CLOSE CASE PURSUANT TO
PLAINTIFF’S NOTICE OF VOLUNTARY
DISMISSAL

(ECF NO. 18)

Plaintiff Robert S. Azevedo is appearing pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff has consented to magistrate judge jurisdiction pursuant to 28 U.S.C. § 636(c).¹

On August 31, 2016, Plaintiff filed a notice of voluntary dismissal. Pursuant to Federal Rule of Civil Procedure 41, a party may dismiss an action, without prejudice, by filing a notice of dismissal prior to the opposing party serving an answer or motion for summary judgment. Fed. R. Civ. P. 41(a)(1)(i). In this instance, Defendants have not yet been served and have not filed an answer or motion for summary judgment. Accordingly, at this stage in the proceedings, Plaintiff has the absolute right to dismiss his claims, without prejudice. Duke Energy Trading & Mktg., L.L.C. v. Davis, 267 F.3d 1042, 1049 (9th Cir. 2001). The filing of the notice itself has the effect of closing the action, and the Court no longer has jurisdiction over the claims.

¹ Plaintiff filed a consent to proceed before a magistrate judge on March 13, 2015. (ECF No. 6.)

1 Accordingly, the Clerk of the Court is HEREBY DIRECTED to close this file pursuant to
2 Plaintiff's notice of voluntary dismissal filed on August 31, 2016.

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5 IT IS SO ORDERED.

6 Dated: September 7, 2016


UNITED STATES MAGISTRATE JUDGE

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