1			
2			
3			
4			
5			
6	UNITED STA	ATES DISTRICT COURT	
7	EASTERN DISTRICT OF CALIFORNIA		
8	EASTERN DISTRICT OF CALIFORNIA		
9	ROLAND THOMAS KOCH,	Case No. 1:15-cv-00438-SKO (PC)	
10	Plaintiff,	ORDER CLOSING THE CASE DUE TO	
11	V.	VOLUNTARY DISMISSAL WITHOUT PREJUDICE	
12	KING, et al.,	(Doc. 13)	
13	Defendants.		
14	Derendants.		
15			
16	Plaintiff Roland Thomas Koch, a civil detainee proceeding pro se and in forma pauperis,		
17	filed this civil rights action pursuant to 42 U.S.C. § 1983. On February 10, 2017, Plaintiff filed a		
18	request for dismissal of this action. (Doc. 13.) Although not stated in Plaintiff's request, ¹ the		
19	Court construes the request as one made pursuant to Federal Rule of Civil Procedure 41(a)(1)(i).		
20	In Wilson v. City of San Jose, the Ninth Circuit explained:		
21	Under Rule $41(a)(1)$, 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		
22	judgment. Concha v. London,	62 F.3d 1493, 1506 (9th Cir. 1995) (citing	
23	Cir. 1987)). A plaintiff may di	<i>American Express</i> , 813 F.2d 1532, 1534 (9th smiss his action so long as the plaintiff files a	
24	notice of dismissal prior to the defendant's service of an answer or motion for summary judgment. The dismissal is effective on filing and no court order is		
25	required. <i>Id</i> . The plaintiff may dismiss some or all of the defendants, or some or all of his claims, through a Rule 41(a)(1) notice. <i>Id</i> .; <i>Pedrina v. Chun</i> , 987		
26	F.2d 608, 609-10 (9th Cir. 1993). The filing of a notice of voluntary dismissal		
27	¹ Plaintiff used a "Request for Dismissal" form for actions in a Superior Court of California and completed all of the		
28	requisite information. (Doc. 13.)		

¹

1 2 3 4	with the court automatically terminates the action as to the defendants who are the subjects of the notice. <i>Concha</i> , 62 F.2d at 1506. Unless otherwise stated, the dismissal is ordinarily without prejudice to the plaintiff's right to commence another action for the same cause against the same defendants. <i>Id.</i> (citing <i>McKenzie v. Davenport-Harris Funeral Home</i> , 834 F.2d 930, 934-35 (9th Cir. 1987)). Such a dismissal leaves the parties as though no action had been brought. <i>Id.</i>	
5	Wilson v. City of San Jose, 111 F.3d 688, 692 (9th Cir. 1997).	
6 7	No answers to Plaintiff's Complaint or motions for summary judgment have been filed in	
7 8	this case, and it appears that no such answers or summary judgment motions have been served.	
o 9	Because Plaintiff has exercised his right to voluntarily dismiss the complaint under Rule 41(a)(1),	
9 10	this case has terminated. See Wilson, 111 F.3d at 692.	
10	Based on the foregoing, IT IS HEREBY ORDERED that the Clerk shall close this case in	
11	light of Plaintiff's Rule 41(a)(1)(i) request for dismissal without prejudice.	
12		
14	IT IS SO ORDERED.	
15	Dated: February 14, 2017 Isl Sheila K. Oberto	
16	UNITED STATES MAGISTRATE JUDGE	
17		
18		
19		
20		
21		
22		
23		
24		
25		
26		
27		
28		
	2	