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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
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11 CLYDEIUS SHONTELL WILLIAMS,

12 Plaintiff,

13 vs.

14 J. ROBINSON,

15 Defendant.
16

1:15-cv-00821-LJO-GSA-PC

ORDER RE PLAINTIFF'S NOTICE OF
VOLUNTARY DISMISSAL UNDER
RULE 41
(Doc. 8.)

ORDER DIRECTING CLERK TO CLOSE
FILE

17 Clydeius Shontell Williams ("Plaintiff") is a state prisoner proceeding pro se in this civil
18 rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed the Complaint commencing this
19 action on April 16, 2015. (Doc. 1.)

20 On June 26, 2015, Plaintiff filed a request to voluntarily dismiss this case without
21 prejudice. (Doc. 8.) The court construes Plaintiff's request as a notice of dismissal under Rule
22 41(a)(1). In Wilson v. City of San Jose, the Ninth Circuit explained:

23 Under Rule 41(a)(1), a plaintiff has an absolute right to voluntarily
24 dismiss his action prior to service by the defendant of an answer or a motion for
25 summary judgment. Concha v. London, 62 F.3d 1493, 1506 (9th Cir. 1995)
26 (citing Hamilton v. Shearson-Lehman American Express, 813 F.2d 1532, 1534
27 (9th Cir. 1987)). A plaintiff may dismiss his action so long as the plaintiff files
28 a 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
required. Id. The plaintiff may dismiss some or all of the defendants, or some
or all of his claims, through a Rule 41(a)(1) notice. Id.; Pedrina v. Chun, 987
F.2d 608, 609-10 (9th Cir. 1993). The filing of a notice of voluntary dismissal

1 with the court automatically terminates the action as to the defendants who are
2 the subjects of the notice. Concha, 62 F.2d at 1506. Unless otherwise stated,
3 the dismissal is ordinarily without prejudice to the plaintiff's right to commence
4 another action for the same cause against the same defendants. Id. (citing
McKenzie v. Davenport-Harris Funeral Home, 834 F.2d 930, 934-35 (9th Cir.
1987)). Such a dismissal leaves the parties as though no action had been
brought. Id.

5 Wilson v. City of San Jose, 111 F.3d 688, 692 (9th Cir. 1997). In this case, no defendant has
6 filed an answer or motion for summary judgment in this action. Therefore, Plaintiff's notice of
7 dismissal is effective, and this case shall be closed.

8 Accordingly, IT IS HEREBY ORDERED that:

- 9 1. Plaintiff's notice of dismissal is effective as of the date it was filed;
- 10 2. This action is DISMISSED in its entirety without prejudice; and
- 11 3. The Clerk of the Court is DIRECTED to close the file in this case and adjust the
12 docket to reflect voluntary dismissal of this action pursuant to Rule 41(a).

13
14 IT IS SO ORDERED.

15 Dated: July 7, 2015

/s/ Lawrence J. O'Neill
16 UNITED STATES DISTRICT JUDGE