

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

ROBERT FORBES,

Plaintiff,

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DONNEY YOUNGBLOOD, et al.,

Defendants.

Case No. 1:15-cv-01061-BAM (PC)

**ORDER REGARDING PLAINTIFF'S
NOTICE OF VOLUNTARY DISMISSAL**

(ECF No. 12)

ORDER DIRECTING CLERK OF COURT TO
CLOSE CASE AND ADJUST DOCKET TO
REFLECT VOLUNTARY DISMISSAL

Plaintiff Robert Forbes (“Plaintiff”) is a former state prisoner proceeding pro se and in forma pauperis in this civil rights action under 42 U.S.C. § 1983. Plaintiff initiated this action on July 10, 2015 (ECF No. 1), and has consented to magistrate judge jurisdiction (ECF No. 5). On December 22, 2016, this Court dismissed the First Amended Complaint with Leave to Amend. (ECF No. 11).

On January 30, 2017, Plaintiff filed a request “to withdraw both previous civil rights compliants [sic] on file.” (ECF No. 12, p. 1.) However, as of the date of this order, Plaintiff does not have any other open civil rights cases currently pending in the Eastern District of California. *United States v. Wilson*, 631 F.2d 118, 119 (9th Cir.1980) (a court may take judicial notice of its own records in other cases). The Court therefore limits its consideration of Plaintiff’s request to the instant action.

“[U]nder Rule 41(a)(1)(i), a plaintiff has an absolute right to voluntarily dismiss his action

1 prior to service by the defendant of an answer or a motion for summary judgment.” *Commercial*
2 *Space Mgmt. Co., Inc. v. Boeing Co., Inc.*, 193 F.3d 1074, 1077 (9th Cir. 1999) (quotation and
3 citation omitted). “[A] dismissal under Rule 41(a)(1) is effective on filing, no court order is
4 required, the parties are left as though no action had been brought, the defendant can’t complain,
5 and the district court lacks jurisdiction to do anything about it.” *Id.* at 1078. There currently is no
6 amended complaint on file. No defendant has been served in this action and no defendant has
7 filed an answer or motion for summary judgment.

8 Accordingly, the Clerk of the Court is HEREBY DIRECTED to CLOSE the file in this
9 case and adjust the docket to reflect voluntary dismissal of this action without prejudice under
10 Rule 41(a). All pending motions, if any, are terminated.

11 IT IS SO ORDERED.
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13 Dated: January 31, 2017

14 /s/ Barbara A. McAuliffe
15 UNITED STATES MAGISTRATE JUDGE
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