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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

PABLO CHAVEZ,

 Plaintiff,

 v.

ARNOLD SCHWARZENEGGER, et al.,

 Defendants.

Case No. 1:15-cv-01612-LJO-SAB (PC)

ORDER DENYING REQUEST TO
RELIEVE PLAINTIFF FROM
REQUIREMENT FOR PAYMENT OF
FILING FEE AND DIRECTING CLERK OF
THE COURT TO CLOSE THIS ACTION

(ECF No. 14)

Plaintiff Pablo Chavez is a state prisoner proceeding pro se and in forma pauperis in this civil action pursuant to 42 U.S.C. § 1983. On February 5, 2015, an order issued dismissing the first amended complaint with leave to amend. On February 25, 2016, Plaintiff filed a notice that he would not proceed any further with this action. Further, Plaintiff sought to be relieved from the requirement that he pay the filing fee in this action.

“[U]nder Rule 41(a)(1)(A)(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) (quoting Wilson v. City of San Jose, 111 F.3d 688, 692 (9th Cir. 1997)). “[A] dismissal under Rule 41(a)(1) is effective on filing, no court order is required, the parties are left as though no action had been brought, the defendant can’t complain, and the district court lacks jurisdiction to do anything about it.” Commercial Space Mgmt. Co., Inc., 193 F.3d at 1078. In this action, no

1 defendant has filed an answer or other responsive pleading. Therefore, the Court will direct the
2 Clerk of the Court to close this action.

3 Plaintiff also seeks to be relieved of the obligation to pay the filing fee. Pursuant to
4 statute, inmates who cannot pay the entire fee at the time of filing may request to proceed in
5 forma pauperis, as Plaintiff did. See 28 U. S. C. § 1915(b). An inmate proceeding in forma
6 pauperis is still responsible for paying the entire filing fee. The in forma pauperis provision
7 merely allows for the collection of the fee over a period of time. This enables inmates otherwise
8 unable to pay the fee to file their actions and make payments over time. Once the action is filed
9 and Plaintiff is granted in forma pauperis status, the fee must be paid. Therefore, Plaintiff's
10 request to be relieved of his obligation to pay the filing fee is denied.

11 Accordingly, it is HEREBY ORDERED that:

- 12 1. Plaintiff's request to be relieved of the obligation to pay the filing fee is DENIED;
- 13 and
- 14 2. The Clerk of the Court is DIRECTED to CLOSE the file in this case and adjust
15 the docket to reflect voluntary dismissal of this action pursuant to Rule 41(a).

16
17 IT IS SO ORDERED.

18 Dated: February 29, 2016

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