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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

RODNEY BARNO,
Plaintiff,
v.
DAVID LOPEZ, et al.,
Defendants.

Case No. 1:16-cv-00576-DAD-BAM (PC)
ORDER REGARDING PLAINTIFF’S
NOTICE OF VOLUNTARY DISMISSAL
(ECF No. 23)

Plaintiff Rodney Barno (“Plaintiff”) is a 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 February 18, 2014. On July 5, 2017, Plaintiff filed a notice of voluntary dismissal, with prejudice, pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i). (ECF No. 23.)

“[U]nder Rule 41(a)(1)(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) (quotation and citation omitted). “[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.” Id. at 1078. No defendant has been served in this action and no defendant has filed an answer or motion for summary judgment. Additionally, pursuant to Plaintiff’s notice of voluntary dismissal, the dismissal is with

1 prejudice. Fed. R. Civ. P. 41(a)(1)(B).

2 Accordingly, the Clerk of the Court is HEREBY DIRECTED to CLOSE the file in this
3 case and adjust the docket to reflect voluntary dismissal of this action, with prejudice, under Rule
4 41(a). All pending motions, if any, are terminated.

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6 IT IS SO ORDERED.

7 Dated: July 7, 2017

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE

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