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**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

RICKY L. BLAND,	)	1:16-cv-01876-BAM (PC)
	)	
Plaintiff,	)	ORDER REGARDING PLAINTIFF'S
	)	MOTION TO WITHDRAW PETITION
v.	)	
	)	(ECF No. 12)
COMMISSIONER, et al.,	)	
	)	ORDER DIRECTING CLERK OF COURT
Defendants.	)	TO CLOSE CASE AND ADJUST DOCKET
	)	TO REFLECT VOLUNTARY DISMISSAL
	)	
	)	

18 Plaintiff Ricky L. Bland is proceeding pro se and in forma pauperis in this civil rights  
19 action pursuant to 42 U.S.C. § 1983. Plaintiff consented to magistrate judge jurisdiction. (ECF  
20 No. 7.)

21 On October 2, 2017, Plaintiff filed a motion to withdraw petition, stating that he  
22 withdraws this action to potential re-file at a later time. (ECF No. 12.) The Court construes this  
23 filing as a notice of voluntary dismissal.

24 “[U]nder Rule 41(a)(1)(i), a plaintiff has an absolute right to voluntarily dismiss his  
25 action prior to service by the defendant of an answer or a motion for summary judgment.”  
26 Commercial Space Mgmt. Co., Inc. v. Boeing Co., Inc., 193 F.3d 1074, 1077 (9th Cir. 1999)  
27 (quotation and citation omitted). “[A] dismissal under Rule 41(a)(1) is effective on filing, no  
28 court order is required, the parties are left as though no action had been brought, the defendant

1 can't complain, and the district court lacks jurisdiction to do anything about it." Id. at 1078. No  
2 defendant has been served in this action and no defendant has filed an answer or motion for  
3 summary judgment.

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

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8 **IT IS SO ORDERED.**

9 Dated: **October 11, 2017**

*/s/ Barbara A. McAuliffe*  
10 UNITED STATES MAGISTRATE JUDGE  
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