

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

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

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

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

“[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

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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