## 1 2 3 4 5 6 7 UNITED STATES DISTRICT COURT 8 9 EASTERN DISTRICT OF CALIFORNIA 10 11 EDDIE YARBROUGH, Case No. 1:17-cv-00185-AWI-BAM (PC) 12 ORDER REGARDING PLAINTIFF'S Plaintiff. MOTION TO VOLUNTARILY DISMISS 13 THIS ACTION v. 14 PRISCILLA MARIN, et al., (ECF No. 16) 15 Defendants. 16 17 Plaintiff Eddie Yarbrough ("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 18 19 February 10, 2017. On February 16, 2018, Plaintiff filed a motion to voluntarily dismiss this 20 action, without prejudice, pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i). (ECF No. 21 16.) 22 "[U]nder Rule 41(a)(1)(i), a plaintiff has an absolute right to voluntarily dismiss his action 23 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 24 citation omitted). "[A] dismissal under Rule 41(a)(1) is effective on filing, no court order is 25 26 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 27

been served in this action and no defendant has filed an answer or motion for summary

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judgment. Accordingly, this action is terminated by operation of law without further order from the Court. Fed. R. Civ. P. 41(a)(1)(A)(i). The Clerk of the Court is directed to terminate all pending motions and deadlines, and close this case. IT IS SO ORDERED. 18/ Barbara A. McAuliffe Dated: February 20, 2018