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7	UNITED STATES DISTRICT COURT	
8	EASTERN DISTRICT OF CALIFORNIA	
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10	NICHOLAS PATRICK,	Case No. 1:17-cv-01121-AWI-SKO (PC)
11	Plaintiff,	ORDER CLOSING THE CASE DUE TO VOLUNTARY DISMISSAL WITHOUT
12	V.	PREJUDICE
12	DIAZ, et al.,	(Doc. 14)
13	Defendants.	
15		
16	Plaintiff Nicholas Patrick a state	e prisoner proceeding <i>pro se</i> , filed this civil rights action
17	pursuant to 42 U.S.C. § 1983. On January 19, 2018, Plaintiff filed a request to voluntarily	
18	dismissal of this action. (Doc. 14.) Although not stated in Plaintiff's request, the Court construes	
19	it as one made pursuant to Federal Rule of Civil Procedure 41(a)(1)(i).	
20	In Wilson v. City of San Jose, the Ninth Circuit explained:	
21	Under Rule 41(a)(1), a plaintiff has an absolute right to voluntarily dismiss his	
22	action prior to service by the defendant of an answer or a motion for summary judgment. <i>Concha v. London</i> , 62 F.3d 1493, 1506 (9th Cir. 1995) (citing	
23	Hamilton v. Shearson-Lehman American Express, 813 F.2d 1532, 1534 (9th	
24	Cir. 1987)). A plaintiff may dismiss his action so long as the plaintiff files a notice of dismissal prior to the defendant's service of an answer or motion for	
25	summary judgment. The dismissal is effective on filing and no court order is required. <i>Id</i> . The plaintiff may dismiss some or all of the defendants, or some	
26	or all of his claims, through a Rule 41(a)(1) notice. Id.; Pedrina v. Chun, 987	
27	F.2d 608, 609-10 (9th Cir. 1993). The filing of a notice of voluntary dismissal with the court automatically terminates the action as to the defendants who are	
28	the subjects of the notice. <i>Concha</i> , 62 F.2d at 1506. Unless otherwise stated, the dismissal is ordinarily without prejudice to the plaintiff's right to	

1	commence another action for the same cause against the same defendants. <i>Id</i> .	
2	(citing <i>McKenzie v. Davenport-Harris Funeral Home</i> , 834 F.2d 930, 934-35 (9th Cir. 1987)). Such a dismissal leaves the parties as though no action had	
3	been brought. Id.	
4	Wilson v. City of San Jose, 111 F.3d 688, 692 (9th Cir. 1997). Neither answers to Plaintiff's	
5	Complaint, nor motions for summary judgment have been filed in this case and it appears that no	
6	such answers or summary judgment motions have been served. Because Plaintiff has exercised	
7	his right to voluntarily dismiss the complaint under Rule 41(a)(1), this case has terminated. See	
8	Wilson, 111 F.3d at 692.	
9	Therefore, IT IS HEREBY ORDERED that the Clerk is ordered to close this case in light	
10	of Plaintiff's Rule 41(a)(1)(i) requested dismissal without prejudice.	
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12	IT IS SO ORDERED.	
13	Dated: January 25, 2018 SENIOR DISTRICT JUDGE	
14	SENIOR DISTRICT JUDGE	
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