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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

CARLOS ROMERO BURNETT,
Plaintiff,
v.
KAMMACK, et al.,
Defendants.

Case No. 1:17-cv-01135-DAD-BAM (PC)
ORDER REGARDING PLAINTIFF’S
NOTICE OF VOLUNTARY DISMISSAL
(ECF No. 17)

Plaintiff Carlos Romero Burnett (“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 August 23, 2017. On July 25, 2018, the Court screened Plaintiff’s complaint and directed Plaintiff to file, within thirty days, an amended complaint or a notice of voluntary dismissal. (ECF No. 16, p. 8.) On August 8, 2018, Plaintiff filed the instant notice of voluntary dismissal, which the Court construes as a notice of voluntary dismissal pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i). (ECF No. 17.)

“[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,

1 and the district court lacks jurisdiction to do anything about it.” Id. at 1078. No defendant has
2 been served in this action and no defendant has filed an answer or motion for summary
3 judgment.

4 Accordingly, this action is terminated by operation of law without further order from the
5 Court. Fed. R. Civ. P. 41(a)(1)(A)(i). The Clerk of the Court is directed to terminate all pending
6 motions and deadlines, and close this case.

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8 IT IS SO ORDERED.

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10 Dated: August 10, 2018

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE

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