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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
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11 MICHAEL HICKS,

12 Plaintiff,

13 v.

14 M. FELDER, et al.,

15 Defendants/
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Case No.: 1:17-cv-01167-AWI-BAM (PC)

ORDER REGARDING PLAINTIFF'S MOTION
TO WITHDRAW PETITION

(ECF No. 9)

ORDER DIRECTING CLERK OF COURT TO
CLOSE CASE AND ADJUST DOCKET TO
REFLECT VOLUNTARY DISMISSAL

18 Plaintiff Michael Hicks is a state prisoner proceeding pro se in this civil rights action
19 pursuant to 42 U.S.C. § 1983.

20 On October 25, 2017, Plaintiff filed a motion to dismiss this action, without prejudice.
21 (ECF No. 9.) The Court construes this filing as a notice of voluntary dismissal.

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
24 Space Mgmt. Co., Inc. v. Boeing Co., Inc., 193 F.3d 1074, 1077 (9th Cir. 1999) (quotation and
25 citation omitted). “[A] dismissal under Rule 41(a)(1) is effective on filing, no court order is
26 required, the parties are left as though no action had been brought, the defendant can’t complain,
27 and the district court lacks jurisdiction to do anything about it.” Id. at 1078. No defendant has
28 been served in this action and no defendant has filed an answer or motion for summary judgment.

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

IT IS SO ORDERED.

Dated: October 30, 2017

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE