

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

DEVONTE B. HARRIS,	)	1:18-cv-00008-LJO-BAM (PC)
	)	
Plaintiff,	)	ORDER REGARDING PLAINTIFF’S
	)	MOTION REQUESTING VOLUNTARY
v.	)	DISMISSAL
	)	(Doc. 13)
J. GALLAGHER,	)	
	)	ORDER DIRECTING CLERK OF COURT
Defendants.	)	TO CLOSE CASE AND ADJUST DOCKET
	)	TO REFLECT VOLUNTARY DISMISSAL
	)	
	)	

Plaintiff Devonte B. Harris is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983.

On July 2, 2018, Plaintiff filed a motion seeking to voluntarily dismiss this action. (Doc. 13.) The Court construes this filing as a notice of voluntary dismissal pursuant to Federal Rule of Civil Procedure 41(a).

“[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, and the district court lacks jurisdiction to do anything about it.” *Id.* at 1078. In this case, no defendant has been served, and no defendant has filed an answer or motion for summary judgment.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

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.

Dated: July 3, 2018

/s/ Barbara A. McAuliffe  
UNITED STATES MAGISTRATE JUDGE