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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

REGINALD A. GARY,
Plaintiff,
v.
NANCY KINCAID, *et al.*,
Defendants.

Case No. 1:18-cv-00612-LJO-BAM (PC)
ORDER REGARDING PLAINTIFF’S
NOTICE OF VOLUNTARY DISMISSAL
(ECF No. 25)

Plaintiff Reginald A. Gary (“Plaintiff”) is a civil detainee proceeding *pro se* and *in forma pauperis* in this civil rights action. Individuals detained under California Welfare Institutions Code § 6600 *et seq.* are civil detainees and are not prisoners within the meaning of the Prison Litigation Reform Act. Page v. Torrey, 201 F.3d 1136, 1140 (9th Cir. 2000).

On May 10, 2019, the Court granted Plaintiff leave to file a first amended complaint or a notice of voluntary dismissal. (ECF No. 22.) Plaintiff was expressly warned that if he failed to file an amended complaint in compliance with the Court’s order, this action would be dismissed for failure to state a claim and failure to obey a court order. (Id. at 6.) The deadline for Plaintiff to file a first amended complaint expired on June 12, 2019.

On June 26, 2019, Plaintiff filed the instant notice of voluntary dismissal. (ECF No. 25.) Plaintiff states that he attempted to file a dismissal of this case on June 1, 2019, which the Court did not receive. (Id.)

1 “[U]nder Rule 41(a)(1)(i), a plaintiff has an absolute right to voluntarily dismiss his action
2 prior to service by the defendant of an answer or a motion for summary judgment.” Commercial
3 Space Mgmt. Co., Inc. v. Boeing Co., Inc., 193 F.3d 1074, 1077 (9th Cir. 1999) (quotation and
4 citation omitted). “[A] dismissal under Rule 41(a)(1) is effective on filing, no court order is
5 required, the parties are left as though no action had been brought, the defendant can’t complain,
6 and the district court lacks jurisdiction to do anything about it.” Id. at 1078. No defendant has
7 been served in this action and no defendant has filed an answer or motion for summary
8 judgment.

9 Accordingly, this action is terminated by operation of law without further order from the
10 Court. Fed. R. Civ. P. 41(a)(1)(A)(i). The Clerk of the Court is directed to terminate all pending
11 motions and deadlines, and close this case.
12 IT IS SO ORDERED.

13 Dated: June 30, 2019

/s/ Barbara A. McAuliffe
14 UNITED STATES MAGISTRATE JUDGE