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8 **UNITED STATES DISTRICT COURT**

9 EASTERN DISTRICT OF CALIFORNIA

10
11 FRANK VALLES,

12 Plaintiff,

13 v.

14 GAMBOA, *et al.*,

15 Defendants.
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Case No. 1:22-cv-00355-ADA-BAM (PC)

ORDER REGARDING PLAINTIFF'S
MOTION TO DISMISS THIS ACTION

(ECF No. 11)

17 Plaintiff Frank Valles ("Plaintiff") is a state prisoner proceeding *pro se* and *in forma*
18 *pauperis* in this civil rights action under 42 U.S.C. § 1983. On April 29, 2022, the Court screened
19 the complaint and issued findings and recommendations recommending dismissal of this action
20 based on Plaintiff's failure to state a cognizable claim upon which relief may be granted. (ECF
21 No. 8.) Plaintiff timely filed objections on May 16, 2022. (ECF No. 9.)

22 On September 14, 2022, Plaintiff filed a motion to dismiss this action, with prejudice.
23 (ECF No. 11.)

24 "[U]nder Rule 41(a)(1)(i), a plaintiff has an absolute right to voluntarily dismiss his action
25 prior to service by the defendant of an answer or a motion for summary judgment." *Commercial*
26 *Space Mgmt. Co., Inc. v. Boeing Co., Inc.*, 193 F.3d 1074, 1077 (9th Cir. 1999) (quotation and
27 citation omitted). "[A] dismissal under Rule 41(a)(1) is effective on filing, no court order is
28 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, with prejudice, by operation of law without further
5 order from the Court. Fed. R. Civ. P. 41(a)(1)(A)(i). The Clerk of the Court is directed to
6 terminate all pending motions and deadlines, including the pending findings and
7 recommendations, and close this case.

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9 IT IS SO ORDERED.

10 Dated: September 15, 2022

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