

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

AUG 15 2011

GREGORY C. LANGHAM
CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 11-cv-00768-BNB

JEREMY PINSON,

Plaintiff,

v.

FEDERAL BUREAU OF PRISONS,
CHARLES SAMUELS,
JOHN RATHMAN,
RUSSELL PERDUE,
LEE GREEN,
BLAKE DAVIS,
RUSS KRIST,
JOSE SANTANA,
HARTLEY LAPPIN,
MICHAEL NALLEY,
TINA SUDLOW,
PATRICIA RANGEL,
DIANNE KRIST,
W. HEIM,
MICHELLE BOND, and
JOHN DIGNAM,

Defendants.

ORDER DISMISSING CASE

Plaintiff, Jeremy Pinson, is in the custody of the United States Bureau of Prisons and currently is incarcerated at ADX in Florence, Colorado. Mr. Pinson, acting *pro se*, initiated this action by filing a Prisoner Complaint and a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915. On August 10, 2011, Mr. Pinson filed a pleading titled, "Voluntary Dismissal." The Court must construe the pleading liberally because Mr. Pinson is a *pro se* litigant. See *Haines v. Kerner*, 404 U.S. 519,

520-21 (1972); *Hall v. Bellmon*, 935 F.2d 1106, 1110 (10th Cir. 1991).

Rule 41(a)(1)(A) provides that “the plaintiff may dismiss an action without a court order by filing: (i) a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment” Defendant has not filed an answer in this action. Further, a voluntary dismissal under Rule 41(a)(1)(A)(i) is effective immediately upon the filing of a written notice of dismissal, and no subsequent court order is necessary. See 8-41 James Wm. Moore et al., *Moore’s Federal Practice* § 41.33(6)(a) (3d ed. 1997); *Hyde Constr. Co. v. Koehring Co.*, 388 F.2d 501, 507 (10th Cir. 1968).

The Court, therefore, construes the pleading as a Notice of Dismissal filed pursuant to Rule 41(a)(1)(A)(i). The file will be closed as of August 10, 2011, the date the Notice was filed with the Court. See *Hyde Constr. Co.*, 388 F.2d at 507.

Accordingly, it is

ORDERED that the pleading, Doc. No. 16, is construed as a Notice of Dismissal filed pursuant to Fed. R. Civ. P. 41(a)(1)(A)(i) and is effective as of August 10, 2011, the date Mr. Pinson filed the Notice in this action.

DATED at Denver, Colorado, this 15th day of August, 2011.

BY THE COURT:

s/Lewis T. Babcock
LEWIS T. BABCOCK, Judge
United States District Court

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

CERTIFICATE OF MAILING

Civil Action No. 11-cv-00768-BNB

Jeremy Pinson
Reg. No. 16267-064
ADX Florence
PO Box 8500
Florence, CO 81226

I hereby certify that I have mailed a copy of the **ORDER** to the above-named individuals on August 15, 2011.

GREGORY C. LANGHAM, CLERK

By:  _____
Deputy Clerk