

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

JUL 01 2011

GREGORY C. LANGHAM
CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 11-cv-01622-BNB

BEN DAVIS,

Plaintiff,

v.

THE GEO GROUP,
UNIT MANAGER RACHAEL HURT, and
ALASKA DEPT. OF CORR.,

Defendants.

ORDER DISMISSING CASE

Plaintiff, Ben Davis, is a prisoner in the custody of the Alaska Department of Corrections who currently is incarcerated at the Hudson Correctional Center in Hudson, Colorado. Mr. Davis originally filed a prisoner civil rights action in the United States District Court for the District of Alaska. The District of Alaska determined that the action properly was filed in the United States District Court for the District Colorado, and the case was transferred to this Court on June 21, 2011. By order dated June 28, 2011, Magistrate Judge Boyd N. Boland directed Mr. Davis to cure certain enumerated deficiencies in the action. Specifically, Mr. Davis was directed to file a Prisoner Complaint and a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 on the Court-approved forms.

On June 29, 2011, Mr. Davis filed a letter to the Court. In the letter, Mr. Davis requests that the Court dismiss the instant action. The letter, therefore, will be

construed as a Notice of Dismissal pursuant to Rule 41(a)(1)(A)(i) of the Federal Rules of Civil Procedure.

Fed. R. Civ. P. 41(a)(1)(A)(i) 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” No answer or motion for summary judgment has been filed by Defendants 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** J. Moore, Moore's Federal Practice ¶ 41.02(2) (2d ed. 1995); **Hyde Constr. Co. v. Koehring Co.**, 388 F.2d 501, 507 (10th Cir. 1968). The Notice, therefore, closes the file as of June 29, 2011. **See Hyde Constr. Co.**, 388 F.2d at 507. Accordingly, it is

ORDERED that the action is dismissed pursuant to Fed. R. Civ. P. 41(a)(1)(A)(i).
It is

FURTHER ORDERED that the voluntary dismissal is without prejudice and is effective as of June 29, 2011, the date Plaintiff filed the Notice in this action. It is

FURTHER ORDERED that all pending motions are denied as moot.

DATED at Denver, Colorado, this 1st day of July, 2011.

BY THE COURT:

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

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

CERTIFICATE OF MAILING

Civil Action No. 11-cv-01622-BNB

Ben Davis
Prisoner No. 152106
Hudson Corr. Center
3001 N. Juniper St.
Hudson, CO 80642

I hereby certify that I have mailed a copy of the **ORDER** to the above-named individuals on July 1, 2011.

GREGORY C. LANGHAM, CLERK

By:  _____
Deputy Clerk