

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 13-cv-00923-BNB

SCOTT COPLEN,

Plaintiff,

v.

ERIC HOLDER, JR., Joint Trustee, United States Attorney General,
DAVID B. BERKIBLE, Joint Trustee, Warden, and
CORDOVA, Trustee, Joint Respondent, Health Service Supervisor,

Defendants.

ORDER DISMISSING CASE

Plaintiff, Scott Coplen, is a prisoner in the custody of the Federal Bureau of Prisons who currently is incarcerated at the United States Penitentiary, Administrative Maximum, in Florence, Colorado. Mr. Coplen has submitted *pro se* a motion to compel (ECF No. 1). On April 11, 2013, Magistrate Judge Boyd N. Boland ordered Mr. Coplen to cure certain deficiencies if he wished to pursue any claims in this Court in this action. On May 9, 2013, Mr. Coplen filed a “Notice of Voluntary Dismissal Pursuant to Rule 41(a)(2), Fed. R. Civ. P. and D. C. Colo. L. Civ. R. 4.1 [sic]” (ECF No. 4).

Pursuant to Rule 41(a)(1)(A) of the Federal Rules of Civil Procedure, Mr. Coplen “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 response has been filed by any Defendant in this action. Therefore, the Court will construe Mr. Coplen’s May 9 motion as a notice of voluntary dismissal pursuant to Fed.

R. Civ. P. 41(a)(1)(A). A voluntary dismissal pursuant to Rule 41(a)(1)(A) 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 closes the file. See *Hyde Constr. Co.*, 388 F.2d at 507.

Accordingly, it is

ORDERED that the "Notice of Voluntary Dismissal Pursuant to Rule 41(a)(2), Fed. R. Civ. P. and D. C. Colo. L. Civ. R. 4.1 [sic]" (ECF No. 4) filed on May 9, 2013, is construed as a notice of voluntary dismissal pursuant to Rule 41(a)(1)(A) of the Federal Rules of Civil Procedure. It is

FURTHER ORDERED that the instant action is dismissed without prejudice pursuant to Plaintiff's notice of voluntary dismissal. It is

FURTHER ORDERED that the voluntary dismissal is effective as of May 9, 2013, the date the notice of voluntary dismissal was filed in this action. It is

FURTHER ORDERED that the motion to compel (ECF No. 1) is denied as moot. It is

FURTHER ORDERED that any other pending motions are denied as moot.

DATED at Denver, Colorado, this 14th day of May, 2013.

BY THE COURT:

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