

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 13-cv-01204-BNB

JOHN JOSEPH ROCHE,

Plaintiff,

v.

LINCOLN COLLEGE OF TECHNOLOGY, Denver, et al.,  
ALLAN SHORT, Executive Director, Denver Campus,  
SUE KUHL, Academic Dean, Denver Campus, and  
STEVE LASECKE, Education Supervisor, Denver Campus,

Defendants.

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ORDER DISMISSING CASE

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Plaintiff, John Joseph Roche, currently resides in Aurora, Colorado. On May 7, 2013, Plaintiff submitted a Complaint to the Court claiming wrongful termination from employment. Magistrate Judge Boyd N. Boland reviewed the Complaint, found it was deficient, and directed Plaintiff to file his claims on a Court-approved form and state the proper jurisdiction for his claims. On June 20, 2013, Plaintiff complied with Magistrate Judge Boland's Order. Magistrate Judge Craig B. Shaffer then entered an order on July 9, 2013, directing Plaintiff to respond and show cause why the Court should not disregard jurisdiction under Title VII in this action. In response to Magistrate Shaffer's Order, Plaintiff filed a Motion to Withdraw Title VII Action on August 7, 2013.

The Court construes the Motion to Withdraw liberally because Plaintiff 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). For the following reasons, the Court will dismiss the

action.

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 Motion, therefore, is construed as a Notice of Voluntary Dismissal. The case will be closed as of August 7, 2013, the date the Notice was filed with the Court. See *Hyde Constr. Co.*, 388 F.2d at 507. Accordingly, it is

ORDERED that the Motion to Withdraw Title VII Action filed on August 7, 2013, ECF No. 21, is construed as a Notice of Voluntary Dismissal and is effective as of August 7, 2013, the date Plaintiff filed the Notice in this action.

DATED at Denver, Colorado, this 15<sup>th</sup> day of August, 2013.

BY THE COURT:

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