

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 13-cv-02296-REB-CBS

BOB CUSTARD,  
Plaintiff,

v.

DAVID ALLRED,  
YVETTE BROUILLET-FETTERHOFF,  
BUREAU OF PRISONS,  
CHAVEZ,  
MARK COLLINS,  
CORDOVA,  
ENCARARNANZE,  
FIEF,  
ANDREW FENLON,  
B. KASDON,  
KOCH-COULTER,  
RICHARD MADISON,  
PATRICIA RANGEL,  
KENT WELLS,  
C.A. WILSON,  
YU,  
PAUL ZOHN, and  
ZONNO,  
Defendants.

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ORDER

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Magistrate Judge Craig B. Shaffer

This civil action comes before the court on Mr. Custard's "Motion to Dismiss Defendants Wilson, Collins, Madison, Wells, & Yu." Pursuant to the Order Referring Case dated January 2, 2014 (Doc. # 31) and the memorandum dated March 18, 2014 (Doc. # 66), this matter was referred to the Magistrate Judge. The court has reviewed the Motion and the entire case file and is sufficiently advised in the premises. No proof of service of the summons and Amended Prisoner Complaint on Defendants Wilson, Collins, Madison, Wells,

or Yu has been filed with the court and these Defendants have not appeared in the case or filed an answer or a motion for summary judgment. Under these circumstances, a voluntary dismissal is effective immediately upon the filing of a written notice of dismissal, and no subsequent court order is necessary. See *Hyde Constr. Co. v. Koehring Co.*, 388 F.2d 501, 507 (10th Cir. 1968) (“Rule 41(a)(1) provides for a dismissal without order of the court by filing a notice of dismissal at any time before service by the adverse party of an answer.”) (internal quotation marks and citation omitted). See also *Janssen v. Harris*, 321 F.3d 998, 1000 (10th Cir. 2003) (“The filing of a notice of dismissal pursuant to Rule 41(a)(1)(i) does not require an order of the court.”) (citation omitted); *Marex Titanic, Inc. v. The Wrecked & Abandoned Vessel*, 2 F.3d 544, 546 (4th Cir. 1993) (stating voluntary dismissal is “self-executing, i.e., it is effective at the moment the notice is filed with the clerk and no judicial approval is required”). Accordingly,

IT IS ORDERED that Mr. Custard’s “Motion to Dismiss Defendants Wilson, Collins, Madison, Wells, & Yu.” (filed March 17, 2014) (Doc. # 63) is GRANTED as self-executing and Defendants C.A. Wilson, Mark Collins, Richard Madison, Kent Wells, & Yu are dropped from this civil action.

DATED at Denver, Colorado, this 18th day of March, 2014.

BY THE COURT:

s/Craig B. Shaffer  
United States Magistrate Judge