

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-00148-BNB

BRANDON CHE LEE,

Plaintiff,

v.

[NO DEFENDANT NAMED],

Defendant.

ORDER DISMISSING CASE

Plaintiff, Brandon Che Lee, is in the custody of the Federal Bureau of Prisons at USP-Leavenworth, Kansas. He initiated this action by submitting a Letter to the Court in which he references a complaint he allegedly filed against "FCC Lompoc Staff." Because there is no record of such a complaint being filed, the Court opened a new civil action.

On January 23, 2014, Magistrate Judge Boyd N. Boland issued an order directing Mr. Lee to show cause, in writing and within thirty (30) days, why this action should not be dismissed without prejudice for improper venue.

Mr. Lee filed a Letter with the Court on February 21, 2014, stating that he does "not want to process this case against FCC Lompoc staff." (ECF No. 6).

Fed. R. Civ. P. 41(a)(1) 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. Further, a voluntary dismissal under Rule 41(a)(1) 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 motion, therefore, closes the file as of December 18, 2013. 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). It is FURTHER ORDERED that the voluntary dismissal is without prejudice and is effective as of February 21, 2014, the date Plaintiff filed the Letter stating that he wished to withdraw his Complaint in this action.

DATED at Denver, Colorado, this 27th day of February, 2014.

BY THE COURT:

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