

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-00431-BNB

GERARDO ROSALES,

Plaintiff,

v.

[NO DEFENDANTS NAMED],

Defendants.

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ORDER DISMISSING CASE

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Plaintiff, Gerardo Rosales, is a prisoner in the custody of the Colorado Department of Corrections. Mr. Rosales initiated this action by filing *pro se* a letter (ECF No. 1) complaining that legal mail sent to him in prison was lost. The instant action was commenced and, on February 19, 2014, Magistrate Judge Boyd N. Boland entered an order directing Mr. Rosales to cure certain deficiencies if he wished to pursue any claims in this action. Specifically, Magistrate Judge Boland directed Mr. Rosales to file on the court-approved form a Prisoner Complaint and either to pay filing and administrative fees totaling \$400.00 or to file on the court-approved form a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 along with a certified copy of his inmate trust fund account statement and an authorization to calculate and disburse filing fee payments. On March 19, 2014, Magistrate Judge Boland entered a minute order granting Mr. Rosales an extension of time to cure the deficiencies.

Mr. Rosales has not cured the deficiencies as directed. Instead, on April 9, 2014, he filed a notice of voluntary dismissal (ECF No. 10) stating that he does not want to proceed with this action.

Pursuant to Rule 41(a)(1)(A) of the Federal Rules of Civil Procedure, Mr. Rosales "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 opposing party in this action. 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 (10<sup>th</sup> Cir. 1968). The notice closes the file. See *Hyde Constr. Co.*, 388 F.2d at 507. Accordingly, it is

ORDERED that the instant action is dismissed without prejudice pursuant to the notice of voluntary dismissal (ECF No. 10). It is

FURTHER ORDERED that the voluntary dismissal is effective as of April 9, 2014, the date the notice of voluntary dismissal was filed in this action.

DATED at Denver, Colorado, this 11<sup>th</sup> day of April, 2014.

BY THE COURT:

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