

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-00686-BNB

EFREM STUTSON,

Plaintiff,

v.

T.K. COZZA-RHODES, Warden,
BLUDWORTH, Assistant Warden, and
MS. GREEN

Defendants.

ORDER DISMISSING CASE

Plaintiff, Efrem Stutson, is a prisoner in the custody of the Federal Bureau of Prisons incarcerated at the Florence Correctional Institution. Mr. Stutson initiated this action by filing *pro se* a Prisoner Complaint (ECF No. 1) pursuant to *Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1971). On March 7, 2014, Magistrate Judge Boyd N. Boland entered an order directing Mr. Stutson to file an amended complaint that states claims clearly and concisely in compliance with Fed. R. Civ. P. 8, and alleges specific facts that demonstrate how each named defendant personally participated in the asserted constitutional violations. On April 8, 2014, Magistrate Judge Boland entered a minute order granting Mr. Stutson an extension of time to file an amended prisoner complaint.

Mr. Stutson has not filed an amended complaint as directed. Instead, on April 22, 2014, he filed a notice of voluntary dismissal (ECF No. 12) 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. Stutson “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 (10th 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. 12). It is

FURTHER ORDERED that the voluntary dismissal is effective as of April 22, 2014, the date the notice of voluntary dismissal was filed in this action.

DATED at Denver, Colorado, this 24th day of April, 2014.

BY THE COURT:

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