

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-00875-BNB

ERIK J. GROSS,

Plaintiff,

v.

CHELSEA BECK,
RUSTY LANDER,
STEPHANIE ENGLER,
YVETTE COUSINS,
JAYLYN KOCH,
JEFF JENKS,
TOM SHELEA, and
TANYA HAMILTON,

Defendants.

ORDER DISMISSING CASE

Plaintiff is in the custody of the Colorado Department of Corrections at the Fremont Correctional Facility in Cañon City, Colorado. On April 23, 2014, Plaintiff submitted a Letter asking that the Court dismiss this action. The Court will construe the Letter as a Voluntary Notice of Dismissal and dismiss the action for the following reasons.

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 case, therefore, will be closed as of April, 2014, the date the Notice was filed with the Court. See *Hyde Constr. Co.*, 388 F.2d at 507.

Accordingly, it is

ORDERED that the Voluntary Notice of Dismissal, ECF No. 5, is effective as of April 23, 2014, the date Plaintiff filed the Notice in this action. It is

FURTHER ORDERED that the Complaint and action are dismissed without prejudice.

DATED at Denver, Colorado, this 25th day of April, 2014.

BY THE COURT:

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