

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-01627-BNB

MICHAEL D. REA, II,

Applicant,

v.

WALKER R. STAPLETON, d/b/a Sec. Stapleton for the Colorado Department of the
Treasury,

SCOTT GESSLER (et seq), d/b/a Sec. Gessler for the Colorado Department of the
State, and

RICK RAEMISCH, d/b/a (Executive Director) for the Colorado Department of
Corrections,

Respondents.

ORDER DISMISSING CASE

Applicant, Michael D. Rea, III, is a prisoner in the custody of the Colorado Department of Corrections. Mr. Rea initiated this action by filing *pro se* a document titled "Writ for Habeas Corpus (28 U.S.C. § 2241)." The instant action was commenced and, on June 11, 2014, Magistrate Judge Boyd N. Boland ordered Mr. Rea to cure certain deficiencies if he wished to pursue any claims in this action. Mr. Rea has not cured the deficiencies as directed. Instead, on June 17, 2014, he filed a notice of voluntary dismissal (ECF No. 5) asking the Court to dismiss the instant action.

Pursuant to Rule 41(a)(1)(A) of the Federal Rules of Civil Procedure, Mr. Rea "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 Respondents 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 Applicant's notice of voluntary dismissal (ECF No. 5). It is

FURTHER ORDERED that the voluntary dismissal is effective as of June 17, 2014, the date the notice of voluntary dismissal was filed in this action.

DATED at Denver, Colorado, this 15th day of July, 2014.

BY THE COURT:

s/Christine M. Arguello
CHRISTINE M. ARGUELLO
United States District Judge, for
LEWIS T. BABCOCK, Senior Judge
United States District Court