

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-01640-BNB

WILLIAM A. MAUNZ,

Applicant,

v.

[NO NAMED RESPONDENTS],

Respondents.

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ORDER DISMISSING CASE

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Applicant, William A. Maunz, initiated this action by filing *pro se* a Letter, ECF No. 1, stating he has exhausted state court remedies and asking if he is able to refile a 28 U.S.C. § 2254 action. On June 12, 2014, Magistrate Judge Boyd N. Boland entered an order directing Applicant to cure certain deficiencies by filing his claims on a Court-approved form used in filing 28 U.S.C. § 2254 actions and either paying the \$5 filing fee or in the alternative submitting a request to proceed pursuant to 28 U.S.C. § 1915. On June 18, 2014, Applicant filed a pleading titled “Motion/Petition to Null/Void 28 U.S.C.A. § 2254 Order Dated: June 12, 2014 by the Court BNB U.S. Mag./Judge,” ECF No. 4. Applicant asks that the Court dismiss this action.

The Court must construe the Motion liberally because Applicant is a *pro se* litigant. See *Haines v. Kerner*, 404 U.S. 519, 520-21 (1972); *Hall v. Bellmon*, 935 F.2d 1106, 1110 (10th Cir. 1991). Rule 41(a)(1)(A) provides that “the [applicant] 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 on

the merits or motion for summary judgment has been filed by Respondents 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 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 Court, therefore, construes the Motion as a Notice of Voluntary Dismissal filed pursuant to Rule 41(a)(1)(A)(i). The file will be closed as of June 18, 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 Motion/Petition to Null/Void, ECF No. 4, is construed as a Notice of Voluntary Dismissal filed pursuant to Fed. R. Civ. P. 41(a)(1)(A)(i) and is effective as of June 18, 2014, the date Applicant filed the Notice in this action. It is

FURTHER ORDERED that the action is dismissed without prejudice.

DATED at Denver, Colorado, this 20<sup>th</sup> day of June, 2014.

BY THE COURT:

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