

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-02300-BNB

DARREL ALAN HYBERG, JR.,

Plaintiff,

v.

[NO DEFENDANTS NAMED],

Defendants.

ORDER DISMISSING CASE

Plaintiff, Darrel Alan Hyberg, Jr., is a prisoner in the custody of the Colorado Department of Corrections. The instant action was commenced when Mr. Hyberg submitted to the Court *pro se* a confusing letter (ECF No. 1) complaining that his rights have been violated and apparently seeking some sort of judicial relief. On August 20, 2014, Magistrate Judge Boyd N. Boland entered an order directing Mr. Hyberg to cure certain deficiencies if he wished to pursue any claims in this action. Magistrate Judge Boland also informed Mr. Hyberg that, if he did not intend to pursue a civil action regarding his allegations in the letter, he should advise the Court of that fact and the instant action would be dismissed.

Mr. Hyberg has not cured the deficiencies as directed. Instead, on August 26, 2014, he filed another letter (ECF No. 4) stating that he does not want to proceed with this civil action. The Court construes the letter filed on August 26 as a notice of voluntary dismissal.

Pursuant to Rule 41(a)(1)(A) of the Federal Rules of Civil Procedure, Mr. Hyberg "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 letter (ECF No. 4) that the Court construes as a notice of voluntary dismissal. It is FURTHER ORDERED that the voluntary dismissal is effective as of August 26, 2014, the date the notice of voluntary dismissal was filed in this action.

DATED at Denver, Colorado, this 29th day of August, 2014.

BY THE COURT:

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