

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-02301-GPG

BROOKS TERRELL-BEY,

Plaintiff,

v.

MS. PERLMAN, Psych Dr.,
CEDENO, Counselor,
HANSEN, Counselor,
KEYS, Unit Manager, and
ED ARO, Attorney,

Defendants.

ORDER DISMISSING CASE

Plaintiff, Brooks Terrell-Bey, is in the custody of the Federal Bureau of Prisons and is incarcerated at the ADMAX facility in Florence, Colorado. He has filed, *pro se*, an Amended Complaint (ECF No. 18) asserting a deprivation of his constitutional rights pursuant to 28 U.S.C. § 1343 and 42 U.S.C. § 1983.

In an Order entered on February 10, 2015, Magistrate Judge Gordon P. Gallagher directed Plaintiff to file a second amended complaint, within 30 days. (ECF No. 20).

On March 6, 2015, Mr. Terrell-Bey filed a Motion for Voluntary Dismissal (ECF No. 21) in which he asks the Court to dismiss this action.

Fed. R. Civ. P. 41(a)(1) 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” No responsive pleading has been filed by the Respondent in this action. Further, a voluntary dismissal under Rule 41(a)(1) 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 motion, therefore, closes the file as of March 6, 2015. See *Hyde Constr. Co.*, 388 F.2d at 507. Accordingly, it is

ORDERED that the action is dismissed pursuant to Fed. R. Civ. P. 41(a)(1). It is

FURTHER ORDERED that the voluntary dismissal is without prejudice and is effective as of March 6, 2015, the date Plaintiff filed the Motion for Voluntary Dismissal.

It is

FURTHER ORDERED that all pending motions are DENIED as moot.

DATED March 10, 2015, at Denver, Colorado.

BY THE COURT:

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