

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-02525-BNB

ROBERT JAMES WING,

Applicant,

v.

[NO RESPONDENT NAMED],

Respondent.

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ORDER DISMISSING CASE

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Applicant, Robert James Wing, is a prisoner in the custody of the Colorado Department of Corrections. The instant action was commenced when Mr. Wing submitted to the Court *pro se* a letter (ECF No. 1) complaining that prison officials are not computing his sentence correctly. On September 11, 2014, Magistrate Judge Boyd N. Boland entered an order directing Mr. Wing to cure certain deficiencies if he wished to pursue any claims in this action. On September 18, 2014, Mr. Wing submitted to the Court another letter (ECF No. 4) seeking clarification of the order directing him to cure deficiencies because he did not believe he needed to do anything. On September 19, 2014, Magistrate Judge Boland entered a minute order explaining that Mr. Wing must cure the specified deficiencies if he wishes to pursue any claims in this action.

Mr. Wing has not cured the deficiencies as directed. Instead, on September 26, 2014, he submitted another letter (ECF No. 6) stating he does not intend to pursue any claims in this action. The Court construes the letter filed on September 26 as a notice

of voluntary dismissal.

Pursuant to Rule 41(a)(1)(A) of the Federal Rules of Civil Procedure, Mr. Wing "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 (10<sup>th</sup> 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. 6) that the Court construes as a notice of voluntary dismissal. It is

FURTHER ORDERED that the voluntary dismissal is effective as of September 26, 2014, the date the notice of voluntary dismissal was filed in this action.

DATED at Denver, Colorado, this 30<sup>th</sup> day of September, 2014.

BY THE COURT:

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