

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 15-cv-00073-GPG

LORENZO YOUNG,

Applicant,

v.

DEBORAH DENHAM, Warden,

Respondent.

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ORDER DISMISSING CASE

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Applicant is in the custody of the Federal Bureau of Prisons and currently is incarcerated at the Federal Correctional Institution in Englewood, Colorado. Applicant initiated this action on January 12, 2015, by filing an Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241 and paid the \$5 filing fee. On January 12, 2015, Magistrate Judge Gordon P. Gallagher entered an order that directed Applicant to file an Application that is signed and dated, which he did on February 20, 2015.

Upon review of the Application, Magistrate Judge Gallagher directed Applicant to respond and show cause why this action should not be dismissed because he has an adequate and effective remedy in the sentencing court pursuant to 28 U.S.C. § 2255.

Rather than respond to the Order to Show Cause, Applicant filed a notice with the Court on March 30, 2015, stating that “[a]t this time [his] argument is misplaced and [he] would like to withdraw this pending motion.” ECF No. 8. The Court will construe the notice as a Notice of Voluntary Dismissal in this case and dismiss the action.

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 . . . .” Respondent has not filed an answer 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 8-41 James Wm. Moore et al., Moore’s Federal Practice § 41.33(6)(a) (3d ed. 1997); *Hyde Constr. Co. v. Koehring Co.*, 388 F.2d 501, 507 (10th Cir. 1968). The case, therefore, will be closed as of March 30, 2015, the date the Notice was filed with the Court. See *Hyde Constr. Co.*, 388 F.2d at 507.

Accordingly, it is

ORDERED that the Voluntary Notice of Dismissal, ECF No. 8, is effective as of March 30, 2015, the date Applicant filed the Notice in this action.

DATED at Denver, Colorado, this 31<sup>st</sup> day of March, 2015.

BY THE COURT:

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