

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 15-cv-01231-GPG

TERRY BETTS,

Applicant,

v.

TRAVIS TRANI,

Respondent.

ORDER DISMISSING CASE

Applicant, Terry Betts, is in the custody of the Colorado Department of Corrections (CDOC) and is incarcerated at the Colorado State Penitentiary in Canon City, Colorado. He initiated this action on June 11, 2015, by filing an Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241, in which he challenges the execution of his state sentence. Mr. Betts has been granted leave to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915.

On June 23, 2015, Magistrate Judge Gordon P. Gallagher entered an Order directing Respondent to file a File Preliminary Response to the Application within 21 days. (ECF No. 7).

On July 1, 2015, Mr. Betts filed a Letter (ECF No. 10), in which he asks to dismiss this action voluntarily because the CDOC has recalculated his release date.

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 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 Letter, therefore, closes the file as of July 1, 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 July 1, 2015, the date Plaintiff filed a Letter (ECF No. 10) requesting voluntary dismissal of this action.

DATED July 21, 2015, at Denver, Colorado.

BY THE COURT:

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