

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 15-cv-1555-LTB

**MARQUIS SCOTT,**

Plaintiff,

v.

**DAWN CHANTELE AUKEE;** and  
**APEX LEGAL SERVICES,**

Defendants.

---

**ORDER DISMISSING CASE**

---

Plaintiff, Marquis Scott, initiated this action *pro se* on July 22, 2015, by filing a Complaint (ECF No. 1) and Application to Proceed in District Court Without Prepaying Fees or Costs (ECF No. 3). On July 28, 2015, he was granted leave to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915 (ECF No. 4).

On August 20, 2015, Plaintiff filed a pleading entitled "Request Motion - Voluntary Dismissal" wherein he requests that the Court dismiss this lawsuit (ECF No. 6). For the reasons stated below, this lawsuit will be dismissed without prejudice.

In response to the Court's Order directing Plaintiff to Show Cause (ECF No. 5), Plaintiff has filed a Motion to Dismiss (ECF No. 6). 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 . . . ." In this case, no responsive pleading has been filed by the Defendants. 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 (10<sup>th</sup> Cir. 1968). Plaintiff's Motion to Dismiss, therefore, closes the file as of August 20, 2015. *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 August 20, 2015, the date Plaintiff filed his Motion to Dismiss (ECF No. 6) requesting voluntary dismissal of this action. It is

**FURTHER ORDERED** that all pending motions are **DENIED** as moot.

DATED August 24, 2015, at Denver, Colorado.

BY THE COURT:

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