

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 15-cv-01816-LTB

MARQUIS SCOTT,

Plaintiff,

v.

CHARLA BRANHAM, Arapahoe City Court Reporter,

Defendant.

ORDER DISMISSING CASE

Plaintiff, Marquis Scott, initiated this action *pro se* on August 21, 2015, by filing a Complaint (ECF No. 1) and Application to Proceed in District Court Without Prepaying Fees or Costs (ECF No. 3). On August 26, 2015, he was denied leave to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915 (ECF No. 4).

On September 23, 2015, Plaintiff filed a Motion for 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.

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 (10th Cir. 1968). Plaintiff's Motion to Dismiss, therefore, closes the file as of September 23, 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 September 23, 2015, the date Plaintiff filed his Motion to Dismiss (ECF No. 6) requesting voluntary dismissal of this action.

DATED September 28, 2015, at Denver, Colorado.

BY THE COURT:

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