

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 15-cv-02265-GPG

JASON FRAZIER,

Plaintiff,

v.

DONALD WILCOX,
JESSICA SEATON,
THERESA COZZA-RHODES,
FEDERAL BUREAU OF PRISONS,
U.S. DEPT. OF JUSTICE,
J. STEGALL, and
ERIC EARWIN,

Defendants.

ORDER DISMISSING CASE

Plaintiff, Jason Frazier, is a prisoner in the custody of the Federal Bureau of Prisons. Mr. Frazier initiated this action by filing *pro se* a Prisoner Complaint (ECF No. 1) pursuant to the Privacy Act and *Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1971). On January 12, 2016, Magistrate Judge Gordon P. Gallagher ordered Mr. Frazier to file an amended complaint within thirty days that complies with the pleading requirements of Rule 8 of the Federal Rules of Civil Procedure. Mr. Frazier has not filed an amended complaint as directed. Instead, on February 2, 2016, he filed a Motion for Voluntary Dismissal (ECF No. 11) asking the Court to dismiss this action without prejudice.

Pursuant to Rule 41(a)(1)(A) of the Federal Rules of Civil Procedure, a 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 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 (10th Cir. 1968). The notice closes the file. See *Hyde Constr. Co.*, 388 F.2d at 507. Accordingly, it is

ORDERED that the Motion for Voluntary Dismissal (ECF No. 11) is granted and the instant action is dismissed without prejudice.

DATED at Denver, Colorado, this 3rd day of February, 2016.

BY THE COURT:

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