

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 15-cv-02393-GPG

ANTHONY RAY SIRACUSA,

Plaintiff,

v.

[NO NAMED DEFENDANTS],

Defendants.

ORDER DISMISSING CASE

Plaintiff currently is detained at the Fremont County Detention Center in Cañon City, Colorado. Plaintiff initiated this action on October 27, 2015, by filing a Letter with the Court that challenges the conditions of his confinement. Magistrate Judge Gordon P. Gallagher entered an Order to Cure Deficiencies on October 29, 2015, that stated, "[t]o the extent that Plaintiff intends to proceed with an action in this Court at this time the instant action has been opened." Magistrate Judge Gallagher also directed Plaintiff to cure certain deficiencies if he desired to proceed with the action.

On November 9, 2015, Plaintiff filed a Letter and stated that he does not intend to proceed with a complaint at this time. ECF No. 4. The Court will construe the Letter as a Notice of Voluntary Dismissal of this case and dismiss the action.

Rule 41(a)(1)(A) 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" Defendants have 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 November 9, 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 Notice of Voluntary Dismissal, ECF No. 4, is effective as of November 9, 2015, the date Plaintiff filed the Notice in this action.

DATED at Denver, Colorado, this 12th day of November, 2015.

BY THE COURT:

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