

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Frank Monaco Bazzo v. State of California, et al.

Bazzo · No. 1:23-cv-01454-KES-SAB (PC) · Decided April 29, 2025

SUMMARY

The United States District Court for the Eastern District of California ordered that the action be terminated without prejudice after Plaintiff Frank Monaco Bazzo moved for voluntary dismissal under Federal Rule of Civil Procedure 41(a)(1)(A). Because no defendant had been served and no answer or motion for summary judgment had been filed, the court concluded that dismissal was effective by operation of law.

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 EASTERN DISTRICT OF
CALIFORNIA 10 11 FRANK MONACO BAZZO, No. 1:23-cv-01454-KES-SAB (PC) 12
Plaintiff, ORDER DIRECTING CLERK OF COURT TO TERMINATE ACTION PURSUANT
TO 13 v. PLAINTIFF’S MOTION FOR VOLUNTARY DISMISSAL 14 STATE OF
CALIFORNIA, et al. (ECF No. 30) 15 Defendants. 16 17 Plaintiff is proceeding pro se in this
action filed pursuant to 42 U.S.C. § 1983.

18 On March 31, 2025, the Court discharge the order to show cause and granted Plaintiff 19 thirty
days to file an amended complaint. 20 In response, on April 29, 2025, Plaintiff filed a motion to
voluntarily dismiss the action 21 pursuant to Federal Rule of Civil Procedure 41. 22 “[U]nder
Rule 41(a)(1)(i), a plaintiff has an absolute right to voluntarily dismiss his action 23 prior to
service by the defendant of an answer or a motion for summary judgment.” Commercial 24 Space
Mgmt.

Co., Inc. v. Boeing Co., Inc., 193 F.3d 1074, 1077 (9th Cir. 1999) (quotation and 25 citation
omitted). “[A] dismissal under Rule 41(a)(1) is effective on filing, no court order is 26 required,
the parties are left as though no action had been brought, the defendant can't complain, 27 and the
district court lacks jurisdiction to do anything about it.” Id. at 1078.

No defendant has 28 been served in this action and no defendant has filed an answer or motion for
summary judgment. 1 Accordingly, this action is terminated, without prejudice, by operation of
law without 2 | further order from the Court. Fed. R. Civ. P. 41(a)(1)(A)q). 3 4 IT IS SO
ORDERED. FA. ee 5 | Dated: _ April 29, 2025 STANLEY A. BOONE 6 United States Magistrate
Judge 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28

