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**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

MALIK JONES,

No. CIV S-09-3218-LKK-CMK-P

Plaintiff,

vs.

ORDER

J. BURGETT, et al.,

Defendants.

_____ /

Plaintiff, a prisoner proceeding pro se, brings this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff has filed a notice of voluntary dismissal. Because no response to the complaint has been filed, leave of court is not required and the action shall be dismissed on plaintiff’s notice. See Fed. R. Civ. P. 41(a)(1)(A)(i). The notice of voluntary dismissal was received but not docketed prior to the undersigned issuing findings and recommendations that this action be dismissed for Plaintiff’s failure to prosecute. Those findings and recommendations are now unnecessary given Plaintiff’s request for voluntary dismissal and will be vacated.

Accordingly, IT IS HEREBY ORDERED that:

1. The findings and recommendations filed May 5, 2010, are vacated;
2. This action is dismissed on Plaintiff’s notice of voluntary dismissal; and

3. The Clerk of the Court is directed to close this file.

DATED: May 6, 2010



CRAIG M. KELLISON
UNITED STATES MAGISTRATE JUDGE

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