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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

ERIC MARTIN,

Plaintiff,

v.

DAVID WINETT, et al.,

Defendants.

CASE NO. 1:04-cv-05358-LJO-BAM PC

ORDER REQUIRING DEFENDANTS TO FILE AN OPPOSITION OR STATEMENT OF NON-OPPOSITION TO PLAINTIFF’S MOTION FOR VOLUNTARY DISMISSAL

(ECF No. 147)

/ TEN DAY DEADLINE

Plaintiff Eric Martin (“Plaintiff”) is a state prisoner proceeding pro se in this civil rights action pursuant to 42 U.S.C. § 1983. Following the United States Court of Appeals for the Ninth Circuit order affirming the grant of Defendants’ motion for summary judgment, but finding that Plaintiff’s Eighth Amendment claims against Defendant Winnett and Due Process claims against Defendants Johnson, Stainer, and Winnett had been improperly dismissed at the screening stage, this action is proceeding on the limited claims revived by the Ninth Circuit. On November 22, 2011, Defendants filed a motion for summary judgment. After being granted three extensions of time to file an opposition, Plaintiff filed a notice of voluntary dismissal, requesting the action be dismissed without prejudice.

Accordingly, IT IS HEREBY ORDERED that, within ten days from the date of service of this order, Defendants shall file an opposition or statement of non-opposition to Plaintiff’s notice of voluntary dismissal.

IT IS SO ORDERED.

Dated: April 19, 2012

/s/ Barbara A. McAuliffe

UNITED STATES MAGISTRATE JUDGE

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