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**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

WILLIAM NIBLE,

Plaintiff,

v.

E. FLORES,

Defendant.

1:06-cv-01716-BAM PC

ORDER GRANTING PLAINTIFF’S MOTION  
TO DISMISS ACTION

(DOC. 108)

\_\_\_\_\_ /

Plaintiff William Nible (“Plaintiff”) is a California state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. This action is proceeding against Defendant E. Flores for violation of the First Amendment. Pending before the Court is Plaintiff’s motion to dismiss this action, filed March 29, 2012. The Court construes the motion as one pursuant to Rule 41(a)(2) of the Federal Rules of Civil Procedure. The motion is unopposed.

“Except as provided in Rule 41(a)(1), an action may be dismissed at the plaintiff’s request only by court order, on terms that the court considers proper.” Fed. R. Civ. P. 41(a)(2). The decision to grant a dismissal under Rule 41(a)(2) rests with the sound discretion of the district court. *Stevedoring Serv. v. Armilla Int’l, B.V.*, 889 F.3d 919, 921 (9th Cir. 1989); *Hamilton v. Firestone Tire & Rubber Co.*, 679 F.2d 143, 145 (9th Cir. 1982). The Court finds that dismissal of this action is proper. The parties will bear their own costs.

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Accordingly, it is HEREBY ORDERED that:

1. Plaintiff's motion to dismiss, filed March 29, 2012, is granted pursuant to Rule 41(a)(2) of the Federal Rules of Civil Procedure; and
2. The parties are to bear their own costs.

IT IS SO ORDERED.

**Dated: April 5, 2012**

**/s/ Barbara A. McAuliffe**  
UNITED STATES MAGISTRATE JUDGE