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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

KEVIN JONES,

Plaintiff,

v.

M. PALOMBO, et al.,

Defendants.

CASE NO. 1:07-cv-01788-OWW-GSA PC

ORDER DIRECTING PARTIES TO ADVISE
WHETHER THEY STIPULATE TO
DISMISSAL OF THIS ACTION PER
FEDERAL RULE OF CIVIL PROCEDURE 41
(Doc. 52.)

This is a civil rights action filed pursuant to 42 U.S.C. § 1983 by Plaintiff Kevin Jones, a state prisoner proceeding pro se and in forma pauperis. On April 7, 2010, Plaintiff filed a “Motion to Address the Court of the Plaintiff’s Reasoning’s to Dismiss Civil Action Suit” which is construed as an attempt to voluntarily dismiss this action pursuant to Federal rule of Civil Procedure 41 (hereinafter “Rule 41”). (Doc. 52.)

Rule 41(a)(1)(A) allows a Plaintiff to “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; or (ii) a stipulation of dismissal signed by all parties who have appeared.” Subsection (B) of Rule 41 provides that, “[u]nless the notice or stipulation states otherwise, the dismissal is without prejudice. But if the plaintiff previously dismissed any federal- or state-court action based on or including the same claim, a notice of dismissal operates as an adjudication on the merits.” Subsection (2) of Rule 41 provides in pertinent part that, “[e]xcept 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. . . .” Thus, at this stage in the litigation, Plaintiff

