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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

GARRISON JOHNSON,

CASE NO. 1:10-cv-01052-SMS PC

Plaintiff,

ORDER DIRECTING CLERK'S OFFICE TO
DISMISS ACTION PURSUANT TO
PLAINTIFF'S NOTICE OF VOLUNTARY
DISMISSAL, AND REFUND \$350.00 FILING
FEE TO PLAINTIFF ON GROUND THAT A
DUPLICATIVE ACTION IS PENDING

v.

MATTHEW CATE, et al.,

Defendants.

(Doc. 3)

_____ /

On June 11, 2010, Plaintiff Garrison Johnson, a state prisoner proceeding pro se, filed this civil rights action pursuant to 42 U.S.C. § 1983 and paid the \$350.00 filing fee in full. On June 24, 2010, Plaintiff filed a notice of voluntary dismissal pursuant to Federal Rule of Civil Procedure 41(a)(1)(i), and requested the return of the filing fee on the ground that this action is duplicative of case number 1:10-cv-00803-AWI-MJS PC *Johnson v. Cate, et al.*

At this stage in the proceedings, Plaintiff has the absolute right to dismiss his claims, without prejudice. *Duke Energy Trading and Marketing, L.L.C. v. Davis*, 267 F.3d 1042, 1049 (9th Cir. 2001). The filing of the notice itself has the effect of closing the action, and the Court no longer has jurisdiction over the claims. Id.

Accordingly, the Clerk of the Court is HEREBY DIRECTED to close this file pursuant to Plaintiff's notice of voluntary dismissal filed on June 24, 2010. The Court has compared the complaints in the two cases and because the actions are duplicative of one another and Plaintiff paid

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1 the \$350.00 filing fee in full in both cases, the Clerk's Office is DIRECTED to return the \$350.00
2 filing fee to Plaintiff.

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4 IT IS SO ORDERED.

5 **Dated: June 29, 2010**

/s/ Sandra M. Snyder
UNITED STATES MAGISTRATE JUDGE

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