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**UNITED STATES DISTRICT COURT**  
EASTERN DISTRICT OF CALIFORNIA

CHARLES W. WINDHAM,  
Plaintiff,  
v.  
MARIN, et al.,  
Defendants.

Case No. 1:14-cv-01636-DAD-BAM (PC)  
ORDER REGARDING STIPULATION FOR  
VOLUNTARY DISMISSAL, WITH  
PREJUDICE  
(ECF No. 146)  
ORDER VACATING EVIDENTIARY  
HEARING SET FOR MAY 10, 2018

Plaintiff Charles W. Windham (“Plaintiff”) is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action under 42 U.S.C. § 1983. This matter is currently set for an evidentiary hearing on the issue of exhaustion. (ECF No. 141.)

On April 5, 2018, Plaintiff filed a notice of voluntary dismissal of this action and request to cancel the scheduled evidentiary hearing and related transport order. (ECF No. 144.) Pursuant to that notice, the Court directed the parties to meet and confer to clarify their intent with respect to dismissal of this action, whether such dismissal would be with or without prejudice, and to file a response or stipulation accordingly. (ECF No. 145.)

Currently before the Court is a stipulation for voluntary dismissal with prejudice pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii), filed by defense counsel. (ECF No. 146.) The stipulation is signed and dated by Plaintiff and counsel for all Defendants who have appeared in this action, and indicates that each party shall bear its own litigation costs and attorney’s fees.

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Accordingly, this action is terminated by operation of law without further order from the Court. Fed. R. Civ. P. 41(a)(1)(A)(ii). The Clerk of the Court is directed to vacate the evidentiary hearing set for May 10, 2018, terminate all pending motions and deadlines, and close this case.

IT IS SO ORDERED.

Dated: April 15, 2018

/s/ Barbara A. McAuliffe  
UNITED STATES MAGISTRATE JUDGE