

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF CALIFORNIA

3
4 DAMIEN DWAYNE OLIVE,

5 Plaintiff,

6 v.

7 S. LOPEZ, et al.,

8 Defendants.
9

CASE NO. 1:16-cv-00427-AWI-MJS (PC)

**ORDER DIRECTING CLERK TO CLOSE
CASE IN LIGHT OF VOLUNTARY
DISMISSAL AND ORDER DECLINING TO
ADOPT FINDINGS AND
RECOMMENDATIONS**

(Doc. Nos. 11, 13)

10 Plaintiff is a state prisoner proceeding pro se and in forma pauperis in this civil
11 rights action brought pursuant to 42 U.S.C. § 1983. (ECF No. 1.) Plaintiff has declined
12 Magistrate Judge jurisdiction. (ECF No. 5.) No other parties have appeared. On October
13 3, 2016, Plaintiff filed a motion seeking to voluntarily dismiss his case. (ECF No. 13.) The
14 Court construes this motion as a notice of voluntary dismissal.

15 Under Federal Rule of Civil Procedure 41(a)(1)(A)(i), a plaintiff may dismiss an
16 action without a Court order by filing a notice of dismissal before the opposing party
17 serves either an answer or a motion for summary judgment. Plaintiff's October 3, 2016
18 notice is sufficient under Rule 41.

19 Accordingly, IT IS HEREBY ORDERED that:

- 20 1. The Clerk shall CLOSE this case in light of Plaintiff's Rule 41(a)(1)(A)(i) notice of
21 voluntary dismissal without prejudice; and
22 2. The Court declines to adopt the Findings and Recommendation issued on July
23 28, 2016, as those Findings are now moot.

24
25 IT IS SO ORDERED.

26 Dated: October 12, 2016


27 SENIOR DISTRICT JUDGE
28