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8 **UNITED STATES DISTRICT COURT**

9 EASTERN DISTRICT OF CALIFORNIA

10
11 DELBERT J. SMITH,

12 Plaintiff,

13 v.

14 C. HERNANDEZ, et al.,

15 Defendants.
16

Case No. 1:16-cv-01267-SAB (PC)

ORDER REGARDING STIPULATION OF
VOLUNTARY DISMISSAL WITH
PREJUDICE PURSUANT TO FED. R. CIV. P.
41(a)(1)(A)(ii)

(ECF No. 113)

17 Plaintiff Delbert J. Smith is a state prisoner proceeding *pro se* and *in forma pauperis* in
18 this civil rights action pursuant to 42 U.S.C. § 1983.

19 Currently before the Court is a stipulation for voluntary dismissal with prejudice pursuant
20 to Federal Rule of Civil Procedure 41(a)(1)(A)(ii), filed on April 5, 2019. (ECF No. 113.) The
21 stipulation states that, since this case has been resolved in its entirety, the parties stipulate to a
22 dismissal of this action with prejudice. The stipulation also states that each party shall bear its
23 own litigation costs and attorney's fees. Finally, the stipulation is signed and dated by Plaintiff
24 and counsel for all Defendants who have appeared in this action.

25 "The plaintiff may dismiss some or all of the defendants, or some or all of his claims,
26 through a Rule 41(a)(1) notice. The filing of a notice of voluntary dismissal with the court
27 automatically terminates the action as to the defendants who are the subjects of the notice."

28 Wilson v. City of San Jose, 111 F.3d 688, 692 (9th Cir. 1997) (citations omitted).

1 Accordingly, this action is terminated by operation of law without further order from the
2 Court. Fed. R. Civ. P. 41(a)(1)(A)(ii). The Clerk of the Court is directed to take all upcoming
3 trial and hearing dates off calendar, terminate all pending deadlines, and close this case.

4
5 IT IS SO ORDERED.

6 Dated: **April 8, 2019**


UNITED STATES MAGISTRATE JUDGE