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

MICHAEL ANDREW ELLIOTT,  
  
                    Plaintiff,  
  
          v.  
  
COMMISSIONER OF SOCIAL  
SECURITY,  
  
                    Defendant.

Case No. 1:16-cv-01763-SAB  
  
ORDER DISCHARGING ORDER TO SHOW  
CAUSE AND DIRECTING CLERK OF  
COURT TO CLOSE CASE  
  
(ECF Nos. 15, 16)

On November 19, 2016, Plaintiff Michael Andrew Elliott filed the present action seeking review of the Commissioner’s denial of an application for benefits. After Plaintiff failed to file his opening brief in compliance with the Court’s scheduling order an order issued requiring Plaintiff to show cause why this action should not be dismissed for failure to prosecute on August 30, 2017. On the same date, Plaintiff responded that this action is to be dismissed pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii) as soon as he is able to obtain authorization from Defendant. On August 31, 2017, Plaintiff filed a stipulation for voluntary dismissal of this action.

Based on Plaintiff’s response, the order to show cause shall be discharged. However, Plaintiff’s counsel is advised that the Court has noted other instances of failure to comply with deadlines established by orders of this Court. See e.g., Simpkins v. Comm. of Soc. Sec., No.

1 1:17-cv-00158-SAB (E.D. Cal. Aug. 23, 2017) (Order Requiring Parties to File Signed  
2 Stipulation of Dismissal where no stipulation was filed nor was an extension of time sought).  
3 Counsel is advised that orders of this Court are not suggestions, and should this continue counsel  
4 will be required to attend a hearing to show cause why sanctions should not issue for the failure  
5 to comply with court orders.

6 In light of the stipulation of the parties, this action has been terminated, Fed. R. Civ. P.  
7 41(a)(1)(A)(ii); Wilson v. City of San Jose, 111 F.3d 688, 692 (9th Cir. 1997).

8 Accordingly, IT IS HEREBY ORDERED that:

- 9 1. The order to show cause issued August 30, 2017 is DISCHARGED; and
- 10 2. The Clerk of the Court is HEREBY ORDERED to CLOSE the file in this case  
11 and adjust the docket to reflect voluntary dismissal of this action pursuant to Rule  
12 41(a).

13 IT IS SO ORDERED.

14 Dated: September 1, 2017

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17 UNITED STATES MAGISTRATE JUDGE  
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