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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
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11 LARRY WILLIAM CORTINAS,

12 Plaintiff,

13 vs.

14 M. HUERTA, et al.,

15 Defendants.
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1:17-cv-00130-AWI-GSA-PC

**ORDER GIVING FULL EFFECT TO
STIPULATION TO DISMISS CASE,
WITH PREJUDICE, UNDER RULE 41
(ECF No. 97.)**

ORDER FOR CLERK TO CLOSE CASE

19 Larry William Cortinas (“Plaintiff”) is a state prisoner proceeding *pro se* and *in forma*
20 *pauperis* with this civil rights action brought pursuant to 42 U.S.C. § 1983. The case proceeds
21 with Plaintiff’s original Complaint filed on January 30, 2017, against Defendant Correctional
22 Officer J. Scalia, for use of excessive force in violation of the Eighth Amendment.¹
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25 ¹ On September 13, 2017, the court issued an order in this case to proceed only against
26 defendants Scalia and Huerta for use of excessive force, against defendant Scalia for retaliation, and
27 dismissing all other claims and defendants from this action based on Plaintiff’s failure to state a claim.
28 (ECF No. 11.) On August 20, 2018, the court dismissed Plaintiff’s retaliation claim against defendant
Scalia based on Plaintiff’s failure to exhaust administrative remedies. (ECF No. 37.) On January 28, 2021,
the court granted defendant Huerta’s motion for summary judgment and entered judgment in favor of
defendant Huerta. (ECF Nos. 76, 77.) Therefore, this case now proceeds only against defendant Scalia for
use of excessive force against Plaintiff.

1 On June 1, 2021, a stipulation for voluntary dismissal with prejudice under Rule 41 of the
2 Federal Rules of Civil Procedure was filed with the Court containing the signatures of Plaintiff
3 and Counsel for Defendant J. Scalia. (ECF No. 97.)

4 Federal Rule of Civil Procedure 41(a)(1)(A)(ii) allows plaintiffs to “dismiss an action
5 without a court order by filing a stipulation of dismissal signed by all parties who have appeared.”
6 The stipulation filed on June 1, 2021 is signed by all parties who have appeared in this case.
7 Therefore, the parties’ stipulation is given full force and effect, and this case is dismissed with
8 prejudice. The Clerk shall close the case.

9 Accordingly, IT IS HEREBY ORDERED that:

- 10 1. The parties’ stipulation for voluntary dismissal of this action with prejudice is
11 effective as of the date it was filed;
- 12 2. This case is DISMISSED WITH PREJUDICE under Rule 41; and
- 13 3. The Clerk of the Court is directed to close this case.

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15 IT IS SO ORDERED.

16 Dated: June 2, 2021

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE