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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JAMIRES SHUNTRE SIMPKINS,

Plaintiff,

v.

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

Case No. 1:17-cv-00158-SAB

ORDER DISMISSING ACTION WITH
PREJUDICE AND DIRECTING CLERK OF
THE COURT TO CLOSE THIS ACTION

(ECF No. 12)

On February 2, 2017, Plaintiff Jamires Shuntre Simpkins (“Plaintiff”) filed this action seeking judicial review of a final decision of the Commissioner of Social Security (“Commissioner” or “Defendant”) denying his application for disability benefits pursuant to the Social Security Act. The parties have consented to the jurisdiction of the United States magistrate judge. (ECF Nos. 7, 8.) On July 5, 2017, the Commissioner filed the administrative transcript. (ECF No. 9.)

On August 22, 2017, Plaintiff filed a stipulation for voluntary dismissal with prejudice and for each party to bear their own attorney fees, costs, and expenses. (ECF No. 11.) Plaintiff sought dismissal under Rule 41 of the Federal Rules of Civil Procedure which provides that a plaintiff may dismiss an action without a court order by filing a stipulation of dismissal signed by all parties who have appeared. Fed. R. Civ. P. 41(a)(1)(A)(ii). While Plaintiff’s counsel signed

1 the document, it was not signed by defendant. Therefore, an order issued requiring Plaintiff to
2 file a stipulation signed by all parties within five days of August 23, 2017. (ECF No. 12.) More
3 than five days has passed and Plaintiff has not filed a signed stipulation or otherwise responded
4 to the Court's order.

5 Since Plaintiff has failed to file a signed stipulation, the Court shall dismiss this action
6 pursuant to Rule 41(a)(2) which provides that the action may be dismissed at Plaintiff's request
7 by court order on terms that the court considers proper. Fed. R. Civ. P. 42(a)(2). The Court
8 finds that it is proper to dismiss this action based on the terms set forth in Plaintiff's August 22,
9 2017 filing. Plaintiff's August 22, 2017 stipulation, stated that the parties have agreed to dismiss
10 this action with prejudice with the parties to bear their own attorney fees, costs, and expenses.

11 Accordingly, IT IS HEREBY ORDERED that this action is DISMISSED WITH
12 PREJUDICE, and the parties shall bear their own attorney fees, costs, and expenses. The Clerk
13 of the Court is DIRECTED to close this matter.

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15 IT IS SO ORDERED.

16 Dated: August 31, 2017


UNITED STATES MAGISTRATE JUDGE

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