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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

EDDIE DOTSON (a/k/a EDWINA DOTSON),

Plaintiff,

v.

CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION, et al.,

Defendants.

No.: 1:17-cv-01199 AWI-BAM

ORDER REGARDING PLAINTIFF’S NOTICE OF VOLUNTARY DISMISSAL OF DEFENDANT J. CLARK KELSO

(Doc. No. 27)

Plaintiff Eddie Dotson is a state prisoner proceeding *in forma pauperis* in this civil rights action under 42 U.S.C. § 1983. Plaintiff filed a first amended complaint against the California Department of Corrections and Rehabilitation, California Correctional Health Care Services, Scott Kernan, J. Clark Kelso, Jeffrey Carrick, and Does 1-50, on October 30, 2018. (Doc. No. 20.) The deadline to respond to the first amended complaint is January 7, 2019. (Doc. No. 24.)

On December 18, 2018, Plaintiff filed a notice of voluntary dismissal of J. Clark Kelson, pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i). (Doc. No. 27.) “[U]nder Rule 41(a)(1)(i), a plaintiff has an absolute right to voluntarily dismiss his action prior to service by the defendant of an answer or a motion for summary judgment.” *Commercial Space Mgmt. Co., Inc. v. Boeing Co., Inc.*, 193 F.3d 1074, 1077 (9th Cir. 1999) (quotation and citation omitted). “[A] dismissal under Rule 41(a)(1) is effective on filing, no court order is required, the parties are left

1 as though no action had been brought, the defendant can't complain, and the district court lacks
2 jurisdiction to do anything about it." *Id.* at 1078. In this case, no defendant has filed an answer
3 or motion for summary judgment.

4 Accordingly, it is HEREBY ORDERED that:

5 1. J. Clark Kelso is terminated from this action by operation of law. Fed. R. Civ. P.
6 41(a)(1)(A)(i); and

7 2. The Clerk of the Court is directed to update the docket and caption in this case, as
8 reflected above.

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10 IT IS SO ORDERED.

11 Dated: December 27, 2018

12 /s/ Barbara A. McAuliffe
13 UNITED STATES MAGISTRATE JUDGE
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