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8	UNITED STATES DISTRICT COURT	
9	EASTERN DISTRICT OF CALIFORNIA	
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11	PERCY LEE RHODES,) Case No. 1:18-cv-00013-SKO
12	Plaintiff,)) ODDED DENIVING DI AINTIEE'S MOTION TO
13	V.	ORDER DENYING PLAINTIFF'S MOTION TO REOPEN THE CASE
14	CITY OF FRESNO, et al.,)) (Doc. 27)
15	Defendants.)
16))
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18	Plaintiff Percy Lee Rhodes, proceeding pro se, filed this civil rights action pursuant to 42	
19	U.S.C. § 1983 in Fresno County Superior Court on October 5, 2016. (Doc. 1 at 5–43.) Defendants	
20	removed the case to this Court on December 29, 2017. (Doc. 1.)	
21	On September 4, 2018, Plaintiff filed a "Stipulation of Dismissal Without Prejudice as to the	
22	Defendants by Percy Lee Rhodes" (the "Stipulation") seeking to dismiss this case without prejudice	
23	pursuant to Federal Rule of Civil Procedure ("Rule") 41(a)(1)(A)(ii). (Doc. 23.) Although the	
24	Stipulation stated Defendants "agree and stipulate" to dismiss the case, the Stipulation was only signed	
25	by Plaintiff and not signed by "all parties who have appeared" in the case as required by Rule	
26	41(a)(1)(A)(ii). (See id.)	
27	On September 5, 2018, the Court entered an order directing Defendants to file a response to the	
28	Stipulation. (Doc. 24.) On September 7, 2018, Defendants filed a "Fully Executed Stipulated	

Dismissal" agreeing to Plaintiff's request for dismissal of this case without prejudice, which was 2 signed by all parties who have appeared in the case. (Doc. 25.) In light of the parties' fully-executed stipulation of dismissal, the Court closed the case on September 10, 2018. (Doc. 26.) 3

On August 6, 2019, Plaintiff filed a "Motion/Order to Reopen Case Under Civil P Rule 60 (B)" but did not state the reason he is seeking to reopen the case. (Doc. 27.) Plaintiff does state, however, that "[n]o prejudice will be suffered by defendants if case is reopened." (Id. at 1.)

A stipulated dismissal under Rule 41 requires no action on the part of the court and divests the 7 court of jurisdiction upon the filing of the stipulation. Commercial Space Management Co., Inc. v. 8 Boeing Co., Inc., 193 F.3d 1074, 1076 (9th Cir. 1999) ("a Rule 41(a)(1) dismissal, once filed, 9 automatically terminates the action, and thus federal jurisdiction, without judicial involvement."). 10 11 Therefore, when the stipulation of dismissal signed by all parties who had appeared was filed pursuant 12 to Rule 41(a)(1)(A)(ii) on September 7, 2018, the case was terminated and this Court was divested of jurisdiction over Plaintiff's case. As the stipulation of dismissal in this case provided Plaintiff's 13 complaint was dismissed without prejudice, he is free to file a new complaint. However, Plaintiff's 14 motion to reopen this case, (Doc. 27), is DENIED for lack of jurisdiction. 15

The Court DIRECTS the Clerk to send a copy of this Order to Plaintiff at his address listed on the docket for this matter.

IT IS SO ORDERED.

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Dated: August 7, 2019

|s| Sheila K. Oberto

UNITED STATES MAGISTRATE JUDGE