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8 **UNITED STATES DISTRICT COURT**

9 EASTERN DISTRICT OF CALIFORNIA

10
11 JOEY ERWIN,

12 Plaintiff,

13 v.

14 PAM AHLIN, et al.,

15 Defendants.

Case No. 1:18-cv-00050-LJO-SAB (PC)

ORDER GRANTING *PLAINTIFF'S EX PARTE* MOTION TO DISMISS AND DIRECTING CLERK OF THE COURT TO CLOSE THIS MATTER

(ECF No. 35, 38)

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17 Plaintiff Joey Erwin, a civil detainee, is appearing pro se and *in forma pauperis* in this
18 civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed the complaint in this action on
19 January 11, 2018. (ECF No. 1.) This action is currently proceeding on the first amended
20 complaint, filed March 26, 2018, against Defendants Pam Ahlin and Brandon Price. (ECF Nos.
21 9, 12.) Defendants filed an answer to the complaint on August 30, 2018. (ECF No. 21.) On
22 January 24, 2019, Plaintiff filed an *ex parte* motion to dismiss this action. (ECF No. 35.)
23 Pursuant to a court order, Defendants filed a statement of non-opposition to dismissing this
24 action without prejudice. (ECF No. 38.)

25 Pursuant to Rule 41 of the Federal Rules of Civil Procedure, a party may dismiss an
26 action by filing a motion requesting the Court to dismiss the action. Fed. R. Civ. P. 41(a)(2). A
27 motion for voluntary dismissal under Rule 41(a)(2) is addressed to the sound discretion of the
28 district court. Hamilton v. Firestone Tire & Rubber Co. Inc., 679 F.2d 143, 145 (9th Cir. 1982).

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Here, Plaintiff no longer wishes to pursue this action; and Defendants have no objection to dismissal of the action without prejudice. Accordingly, the Court shall grant Plaintiff's request for dismissal of this action.

Based on the foregoing, IT IS HEREBY ORDERED that:

- 1. All pending dates and matters are VACATED;
- 2. This action is DISMISSED WITHOUT PREJUDICE; and
- 3. The Clerk of the Court is DIRECTED to close this matter.

IT IS SO ORDERED.

Dated: February 7, 2019

/s/ Lawrence J. O'Neill
UNITED STATES CHIEF DISTRICT JUDGE