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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

KAREEM J. HOWELL,
Plaintiff,
vs.
J. ALEJO, et al.,
Defendants.

1:18-cv-00825-GSA-PC

**ORDER DENYING REQUEST TO VACATE
ORDER REQUIRING PLAINTIFF TO PAY THE
FILING FEE FOR THIS ACTION
(ECF No. 18.)**

Kareem J. Howell (“Plaintiff”) is a state prisoner proceeding *pro se* and *in forma pauperis* with this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed the Complaint commencing this action on June 18, 2018. (ECF No. 1.)

On February 28, 2019, a settlement conference was held before the Honorable Stanley A. Boone and this case was settled. (ECF No. 16.) On March 1, 2019, Plaintiff filed a notice of voluntary dismissal of this case under Rule 41 of the Federal Rules of Civil Procedure. (ECF No. 16.) The filing of a notice of voluntary dismissal under Rule 41 automatically terminates the action as to the defendants who are the subjects of the notice. Concha v. London, 62 F.3d 1493, 1506 (9th Cir. 1995). On March 6, 2019, the case was closed. (ECF No. 17.)

1 Plaintiff now requests relief from payment of the filing fee for this action. Plaintiff
2 argues that the court should vacate its order directing payment of the filing fee by the California
3 Department of Corrections and Rehabilitation (CDCR) because the court did not screen the
4 Complaint and no defendants were served.

5 Plaintiff's argument is unpersuasive. Plaintiff was notified by the court's order of July
6 5, 2018, that he would be obligated to pay the filing fee in full. (ECF No. 7.) Moreover,
7 Plaintiff signed and dated his application to proceed *in forma pauperis* filed on June 18, 2018,
8 which clearly states directly above Plaintiff's signature, "I hereby authorize the agency having
9 custody of me to collect from my trust account and forward to the Clerk of the United States
10 District Court payments in accordance with 28 U.S.C. section 1915(b)(2)." (ECF No. 2.)
11 Plaintiff is not excused from paying the filing fee simply because his case was dismissed. The
12 filing fee is collected as payment for *filing* the case, and Plaintiff's case was *filed* on June 18,
13 2018. (ECF No. 1.) Therefore, Plaintiff's request shall be denied.

14 Accordingly, IT IS HEREBY ORDERED that Plaintiff's request for the court to vacate
15 its order directing payment of the filing fee for this case, filed on March 29, 2019, is DENIED.

16
17 IT IS SO ORDERED.

18 Dated: April 1, 2019

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE