UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

WILLIAM J. GRADFORD,

          Plaintiff,

    v.

F. VELASCO, et al.,

          Defendants.

No. 1:20-cv-00543-NONE-EPG (PC)

ORDER RE; MOTION TO DISMISS; REQUIRING RESPONSE FROM PLAINTIFF

(ECF No. 65)

On May 25, 2021, Plaintiff William J. Gradford, a former pretrial detainee proceeding *pro se* and *in forma pauperis* in this civil rights action, filed a motion titled "plaintiff's request to dismiss this case." (ECF No. 65). In the abundance of caution, the Court will require Plaintiff to clarify its purpose.

By its title, the filing appears to be Plaintiff's attempt to voluntary dismiss his case without a court order as permitted under Federal Rule of Civil Procedure 41(a)(1). And, to this end, Defendants have filed a statement indicating that they do not oppose dismissal. *See* Fed. R. Civ. P. 41(a)(1)(A)(ii) (permitting dismissal after the service of an answer by a stipulation of dismissal signed by all parties who have appeared).

However, Plaintiff previously filed a motion to dismiss (ECF No. 42) before in this action, which he later moved to withdraw (ECF No. 49) based on his professed confusion. The Court permitted Plaintiff to withdraw his motion. (*See* ECF Nos. 50, 68). Plaintiff appears to have

renewed his request.

Accordingly, IT IS HEREBY ORDERED that Plaintiff shall submit a notice within 14 days of service of this order, stating whether his May 25, 2021 filing (ECF No. 65) intends to voluntarily dismiss this case, meaning that the action will be terminated from the docket without prejudice and the case will no longer continue against the Defendants. Importantly, a dismissal does <u>not</u> mean that this case will be transferred to another judge. If Plaintiff fails to respond within the 14-day period, it will be presumed that he intends to dismiss this case, as indicated in his filing.

IT IS SO ORDERED.

Dated: **June 7, 2021**   /s/ _Eric P. Gros_
                                           UNITED STATES MAGISTRATE JUDGE