

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

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

KYLE J. KUBES, ) Case No.: 1:20-cv-00632-AWI-SAB (PC)  
)  
Plaintiff, )  
)  
v. ) ORDER DIRECTING THE CLERK OF COURT TO  
) CLOSE THIS ACTION PURSUANT TO THE  
) PARTIES' STIPULATION FOR VOLUNTARY  
CALIFORNIA CORRECTIONAL ) DISMISSAL  
INSTITUTION, )  
) (ECF No. 40)  
)  
Defendant. )  
)  
)  
)

Plaintiff Kyle J. Kubes is proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983.

On April 23, 2021, the parties filed a stipulation to dismiss this action with prejudice pursuant to Rule 41(a)(1)(A)(ii) of the Federal Rules of Civil Procedure. (ECF No. 40.)

Rule 41(a)(1)(A)(ii) provides in pertinent part that, “the plaintiff may dismiss an action without a court order by filing . . . a stipulation of dismissal signed by all parties who have appeared. A voluntary stipulation to dismiss an action pursuant to Rule 41(a)(1)(A)(ii) automatically terminates the action without operation of a court order. Black Rock City, LLC v. Pershing Cty. Bd. of Comm’rs, 637 F. App’x 488 (9th Cir. 2016) (citing Commercial Space Mgmt. Co. v. Boeing Co., 193 F.3d 1074, 1077 (9th Cir. 1999)). Here, Plaintiff and counsel for Defendants in this action have signed and dated a stipulation to dismiss this action, and filed it with the Court.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Accordingly, this action has been DISMISSED, with prejudice, pursuant to the parties' stipulation. Each party shall bear its own litigation costs and attorney's fees.

The Clerk of the Court is HEREBY ORDERED to CLOSE the file in this case and adjust the docket to reflect the dismissal pursuant to Rule 41(a)(1)(A)(ii).

IT IS SO ORDERED.

Dated: April 26, 2021



UNITED STATES MAGISTRATE JUDGE