

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

WARDY EVANS, III, No. CIV S-09-3381-CMK-F

Plaintiff,

ORDER

WARDEN, et al.,

Defendants.

Plaintiff, a prisoner proceeding pro se, brings this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff has consented to Magistrate Judge jurisdiction pursuant to 28 U.S.C. § 636(c). No other party has been served or appeared in the action. Pending before the court is the document filed on April 12, 2010 (Doc. 10).

21 The instant filing, which is hand-written in the margins of a notice from the court
22 dated December 7, 2009, appears to be a request for voluntary dismissal and request that the
23 court vacate it's prior order directing prison officials to collect installment payments in order to
24 satisfy the filing fee. As to the latter request, plaintiff is advised that he is responsible for the
25 entire \$350.00 filing fee regardless of whether this action is voluntarily dismissed or proceeds to
26 a disposition on the merits. See 28 U.S.C. § 1915(b)(1).

1 To the extent plaintiff seeks voluntary dismissal of this action, because no
2 response to the complaint has been filed, leave of court is not required and the action is dismissed
3 on plaintiff's April 12, 2010, notice. See Fed. R. Civ. P. 41(a)(1)(A)(I). The Clerk of the Court
4 is directed to close this file.

5 IT IS SO ORDERED.
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7 DATED: April 21, 2010
8 
9 CRAIG M. KELLISON
10 UNITED STATES MAGISTRATE JUDGE
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