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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JIMMIE J. ADKINSON,
Plaintiff,
v.
CAROLYN W. COLVIN, Acting
Commissioner of Social Security,
Defendant.

No. 2:14-cv-1864-EFB

ORDER


On December 2, 2015, counsel for plaintiff filed a request to voluntarily dismiss this action pursuant to Rule 41(a) of the Federal Rules of Civil Procedure. ECF No. 16. Subject to exceptions not applicable here, a plaintiff may voluntarily dismiss an action without prejudice, and without a court order, by filing:

- (i) a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment; or
- (ii) a stipulation of dismissal signed by all parties who have appeared.

Fed. R. Civ. P. 41(a)(1)(A). Before plaintiff filed the notice of voluntary dismissal, defendant filed an answer. ECF No. 10. Therefore, this action cannot be dismissed pursuant to Rule 41(a)(1)(A)(i). However, a defendant may choose to stipulate to dismissal without prejudice

1 pursuant to Rule 41(a)(1)(A)(ii). On December 15, 2015, defendant filed a statement of non-
2 opposition to the request to dismiss. The court construes the parties' filings (ECF Nos. 16, 17) as
3 a stipulation for voluntary dismissal without prejudice pursuant to Rule 41(a)(1)(A)(ii). The
4 Clerk is directed to close the case.

5 DATED: December 16, 2015.


6 EDMUND F. BRENNAN
7 UNITED STATES MAGISTRATE JUDGE
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