

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

LUFKIN DIVISION

JOSE GUTIERREZ §
VS. § CIVIL ACTION NO. 9:16-CV-114
MANAGEMENT AND TRAINING §
CORPORATION (“MTC”) AND DAVID §
DRISKELL §

MEMORANDUM OPINION AND ORDER

Plaintiff, Jose Gutierrez, represented by counsel, Reginald McKamie, filed the above-referenced civil rights action pursuant to 42 U.S.C § 1983 against defendants Management and Training Corporation (“MTC”) and Warden David Driskell.

The parties have submitted an Agreed Motion to Dismiss With Prejudice (docket entry no. 46). The parties state all matters in controversy with defendants have been resolved.

Federal Rule of Civil Procedure 41(a)(1) provides that a plaintiff may voluntarily dismiss an action without a court order in one of two ways. A plaintiff may dismiss an action under Rule 41(a)(1)(A)(I) by filing “a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment.” FED. R. CIV. P. 41(a)(1)(A)(I). A plaintiff may alternatively dismiss an action under Rule 41(a)(1)(A)(ii) by filing “a stipulation of dismissal signed by all parties who have appeared.” *Id.* As such, formal court action is not necessary in this case. However, the Court finds that in the interest of efficiency, justice, and maintaining clarity of the record, an entry of order of dismissal as requested by the parties is appropriate. Based on the foregoing, it is,

ORDERED that the parties’ Agreed Motion to Dismiss with Prejudice (docket entry no. 46) is **GRANTED**. This entire action, and all of the claims asserted therein, are **DISMISSED WITH**

PREJUDICE. Each party shall bear its own costs.

SIGNED this 2nd day of December, 2019.

A handwritten signature in black ink, appearing to read 'Zack Hawthorn', written over a horizontal line.

Zack Hawthorn
United States Magistrate Judge