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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

SAM DONAGHE, Plaintiff, v. PATRISHA LASHAWAY, et al., Defendants.	CASE NO. 3:16-cv-5973-RJB-JRC REPORT AND RECOMMENDATION ON PLAINTIFF'S MOTION TO DISMISS NOTED FOR: February 27, 2018

Before the Court is plaintiff's Motion to Dismiss Complaint. Dkt. 58. Defendants "stipulate to the dismissal of this action." Dkt. 59 (citing Fed. R. Civ. P. 41(a)(1)(A)(ii)). The undersigned recommends that the Court grant the motion (Dkt. 58) and dismiss the amended complaint (Dkt. 42) without prejudice.

BACKGROUND

On November 1, 2017, defendants filed their answer. Dkt. 53. On February 14, 2018, plaintiff filed a Motion to Dismiss as he is to be released and "will no longer be subjected to the civil conditions of confinement at the SCC facility." Dkt. 58, p. 2. Defendants "stipulate to the dismissal of this action." Dkt. 59 (citing Rule 41(a)(1)(A)).

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DISCUSSION

Rule 41 of the Federal Rules of Civil Procedure sets forth the circumstances under which an action may be dismissed. Under Rule 41(a)(1)(A), an action may be dismissed by the plaintiff without order of the court "by filing a stipulation of dismissal signed by all parties who have appeared in the action." Fed. R. Civ. P. 41(a)(1)(A)(ii). Plaintiff has filed a motion to dismiss (Dkt. 58), and defendants "stipulate to the dismissal of this action." Dkt. 59 (citing Fed. R. Civ. P. 41(a)(1)(A)(ii)).

Rule 41(a)(2) provides, in part, that: "[e]xcept as provided in Rule 41(a)(1), an action may be dismissed at the plaintiff's request only by court order, on terms that the court considers proper." Fed. R. Civ. P. 41(a)(2).

CONCLUSION

Given the facts and the parties' stipulation, the Court recommends that the District Judge immediately approve this Report and Recommendation, grant plaintiff's Motion to Dismiss (Dkt. 58), and issue an Order dismissing this action (Amended Complaint, Dkt. 42) without prejudice.

Dated this 27th day of February, 2018.

J. Richard Creatura
United States Magistrate Judge