

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division

ROBERT GRINNAGE,

Petitioner,

v.

Civil Action No.: 3:08CV267

UNITED STATES PAROLE
COMMISSION,

Respondent.

MEMORANDUM OPINION

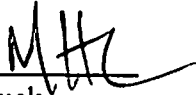
Petitioner Robert Grinnage, a federal prisoner proceeding *pro se*, filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. Respondent filed a motion to dismiss Petitioner's claims on August 15, 2008. Petitioner moved on September 11, 2008, for the Court to hold all matters in this case in abeyance until the outcome of his November 3, 2008 parole hearing became known. (Docket No. 13.) Respondent took no position with respect to Petitioner's motion for abeyance. (Docket No. 15.)

Respondent notified Grinnage on January 27, 2009, that it had set his presumptive parole date for September 16, 2010. (Resp't's Resp. Pet'r's Mot. Dismiss Ex. 1.) (Docket No. 19.) On February 9, 2009, Grinnage moved to dismiss the present action without prejudice because the award of a release date "rendered the pending petition moot." (Docket No. 18.)

Because the United States Parole Commission has filed a response, the motion is governed by Fed. R. Civ. P. 41(a)(2). Generally, a petitioner's motion for dismissal without prejudice should not be denied absent substantial prejudice to the respondent. *See Andes v.*

Versant Corp., 788 F.2d 1033, 1036 (4th Cir. 1986). Respondent represents that it does not object to Petitioner's motion to dismiss the petition without prejudice, and the Court finds that Respondent will not be substantially prejudiced. Accordingly, Petitioner's motion to dismiss his habeas petition (Docket No. 18) will be GRANTED. Respondent's motion to dismiss (Docket No. 6) will be DENIED AS MOOT. Petitioner's Motion for Abeyance (Docket No. 13) will be DEEMED MOOT. The action will be DISMISSED WITHOUT PREJUDICE.

An appropriate Order shall issue.

_____/s 
M. Hannah Lauck
United States Magistrate Judge

Richmond, Virginia
Date: 2/12/09