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NOT FOR PUBLICATION

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

Wendell Clayton Gordon,

Petitioner,

vs.

C. Ryan, et al.

Respondents.

) No. CV10-0364-PHX-SRB

) **ORDER**

Petitioner filed his Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254 on February 19, 2010. On June 17, 2010 Respondents filed a Notice of Pending State Court Proceedings That Could Moot the Instant Federal Habeas Action. On July 13, 2010, the Magistrate Judge issued her Report and Recommendation recommending that the petition be dismissed without prejudice as premature. The Magistrate Judge also recommended that Petitioner’s “Summary Judgment” be denied as moot.

The Court finds itself in agreement with the Report and Recommendation of the Magistrate Judge.

IT IS ORDERED adopting the Report and Recommendation of the Magistrate Judge as the order of this Court.

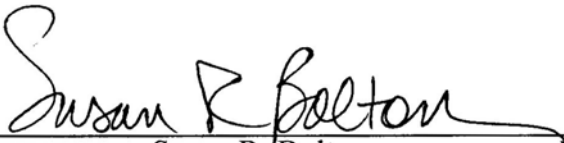
IT IS FURTHER ORDERED that the Petition for Writ of Habeas Corpus is dismissed without prejudice.

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IT IS FURTHER ORDERED denying as moot Petitioner's pleading entitled "Summary Judgement" (Doc. 16).

IT IS FURTHER ORDERED directing the Clerk to enter judgment accordingly.

DATED this 11<sup>th</sup> day of August, 2010.

  
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Susan R. Bolton  
United States District Judge