

**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

VINCENT HAYES,

1:07-cv-01854 AWI DLB HC

Petitioner,

ORDER GRANTING PETITIONER'S  
MOTION FOR VOLUNTARY DISMISSAL OF  
ACTION AND DIRECTING CLERK OF  
COURT TO TERMINATE ACTION

v.

YOUNGBLOOD, et.al.,

[Doc. 7]

Respondent.

Petitioner is a federal prisoner proceeding pro se with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241.

Petitioner filed the instant petition for writ of habeas corpus on December 20, 2007. (Court Doc. 1.) On January 10, 2008, the Court directed Respondent to file a response to the petition. (Court Doc. 5.)

On January 24, 2008, Petitioner filed a motion to dismiss the instant petition because the United States Parole Commission has given him an expedited revocation hearing and the pursuit of the instant petition would result in a waste of the court's time. (Court Doc. 7.)

Pursuant to Rule 41(a)(1) of the Federal Rules of Civil Procedure, "an action may be dismissed by the [Petitioner] without order of court by filing a notice of dismissal at any time before service by the adverse party of an answer or of a motion for summary judgment, whichever first occurs, or (ii) by filing a stipulation of dismissal signed by all parties who have appeared in the action. Unless otherwise stated in the notice of dismissal or stipulation, the

1 dismissal is without prejudice, . . . .” Pursuant to Rule 11 of the Rules Governing Section 2254  
2 Cases, the "Federal Rules of Civil Procedure, to the extent that they are not inconsistent with  
3 these rules, may be applied, when appropriate, to petitions filed under these rules."

4 At this time, although Respondent has been directed to file a response to the petition, the  
5 answer is not yet due and has not been filed. Accordingly, IT IS ORDERED that the petition BE  
6 DISMISSED without prejudice.

7  
8 IT IS SO ORDERED.

9 **Dated: February 2, 2008**

**/s/ Anthony W. Ishii**  
UNITED STATES DISTRICT JUDGE