UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

GABRIEL DIEGO BETANCOURT, Petitioner, v. JAMES HARTLEY, Respondent.	1:09-CV-1140 AWI JMD HC ORDER REGARDING PETITIONER'S MOTION FOR VOLUNTARY DISMISSAL OF HABEAS PETITION

Pending before the Court is Gabriel Diego Betancourt's (hereinafter "Petitioner") motion to voluntarily dismiss his 28 U.S.C. § 2254 petition for writ of habeas corpus. See Doc. No. 21. On June 30, 2009, Petitioner filed his federal petition challenging the Board of Parole Hearings' ("Board") denial of parole. See Doc. No. 1. On July 26, 2010, Respondent filed a response to the petition. See Doc. No. 15. On September 22, 2010, Petitioner filed a traverse. See Doc. No. 18.

On December 8, 2010, the Magistrate Judge issued a Findings and Recommendation ("F&R") that the petition be DENIED with prejudice. The F&R was served on all parties and contained notice that any objections were to be filed within thirty (30) days of the date of service of the order.

On December 16, 2010, Petitioner filed a motion to dismiss his petition. The Court construes Petitioner's motion to be a Federal Rule of Civil Procedure 41(a) motion for voluntary dismissal. Respondent has not filed a response to Petitioner's motion. In order to resolve the pending motion, Respondent is ordered to file either an opposition or a statement of non-opposition to Petitioner's Rule 41(a) motion.

ORDER

Accordingly, Respondent is ordered to file either an opposition or a statement of non-opposition to Petitioner's Rule 41(a) motion on or by January 21, 2011.

IT IS SO ORDERED.

Dated: January 14, 2011 **/s/ John M. Dixon**
UNITED STATES MAGISTRATE JUDGE