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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

HENRY CARTWRIGHT,
Petitioner,
v.
DONNY YOUNGBLOOD,
Respondent.

1:10-cv-00684-OWW-MJS HC
ORDER GRANTING PETITIONER'S
MOTION TO VOLUNTARILY DISMISS
PETITION
[Doc. 11]

Petitioner is a state prisoner proceeding pro se with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254.

On July 20, 2010, the Magistrate Judge issued a Findings and Recommendation that the petition for writ of habeas corpus be DISMISSED for failure to allege grounds that would entitle Petitioner to relief under 28 U.S.C. § 2254. The Findings and Recommendation was served on all parties and contained notice that any objections to the Findings and Recommendation were to be filed within thirty (30) days of the date of service of the order.

Although no party filed objections to the Findings and Recommendation, Petitioner filed a notice of motion to withdraw the petition for writ of habeas corpus on August 30, 2010. (Mot., ECF No. 11.) The federal courts have a duty to construe pro se pleadings liberally. Hamilton

1 v. United States, 67 F.3d 761, 764 (9th Cir.1995) (citing Hughes v. Rowe, 449 U.S. 5, 9 (1980)
2 (quotation omitted)). Consistent with such duty, the Court will construe Petitioner's August 30,
3 2010 notice of motion to withdraw petition as a motion pursuant to Fed. Rules of Civ. Proc.
4 41(a)(1) to voluntarily dismiss the action without prejudice. (See Rule 12, Rules Governing
5 Section 2254 Cases, "The Federal Rules of Civil Procedure, to the extent that they are not
6 inconsistent with any statutory provisions or these rules, may be applied to a proceeding under
7 these rules.")

8 Accordingly, good cause having been presented to the Court, IT IS HEREBY
9 ORDERED that the petition is DISMISSED without prejudice. The Clerk of Court is DIRECTED
10 to enter judgment and close the case.

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12 IT IS SO ORDERED.

13 **Dated: September 9, 2010**

/s/ Oliver W. Wanger
UNITED STATES DISTRICT JUDGE

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