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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JOHN MICHAEL BEAMES,
Petitioner,
v.
RON DAVIS, Warden of California State Prison
at San Quentin,
Respondent.

Case No. 1:10-cv-01429-DAD
DEATH PENALTY CASE
ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS VACATING
FINDINGS AND RECOMMENDATIONS
AND DISMISSING ACTION AS HAVING
BEEN RENDERED MOOT

Petitioner John Michael Beames, a state prisoner convicted and sentenced to death in Tulare County Superior Court on October 11, 1995, proceeded through appointed counsel, the Office of the Federal Defender, on the habeas corpus petition filed pursuant to 28 U.S.C. § 2254 on July 27, 2011. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302 for the conducting of a limited evidentiary hearing on Claim 11 and filing of findings and recommendations thereon.

On October 2, 2017, the magistrate judge issued findings and recommendations following February 1-3, 2016 evidentiary hearing, recommending that federal habeas relief as to petitioner's Claim 11 be denied. Those findings and recommendations are under submission.

Now before the court is the motion filed September 2, 2020 by petitioner's counsel seeking to vacate the October 2, 2017 findings and recommendations, and dismiss the petition

1 filed in this action as moot, based upon petitioner's death on July 21, 2020.

2 On September 9, 2020, the magistrate judge filed findings and recommendations
3 recommending that petitioner's motion be granted. The findings and recommendations were
4 served on the parties and contained notice that any objections by respondent were to be filed
5 within fourteen (14) days thereof. Respondent has not objected or otherwise responded to the
6 findings and recommendations filed on September 9, 2020, and the time for doing so has passed.

7 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, this
8 court has conducted a de novo review of this case. Having carefully reviewed the entire file, the
9 court finds the findings and recommendation to be supported by the record and proper analysis.

10 Accordingly,

- 11 1. The findings and recommendations filed on September 9, 2020 (Doc. No. 237)
12 are adopted in full;
- 13 2. The findings and recommendations filed on October 2, 2017 (Doc. No. 226) are
14 vacated;
- 15 3. This action is dismissed as having been rendered moot by petitioner's death;
- 16 4. A certificate of appealability shall not issue; and
- 17 5. The Clerk of Court is directed to close this case.

18 IT IS SO ORDERED.

19 Dated: September 26, 2020

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UNITED STATES DISTRICT JUDGE