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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

LEWIS J. SATTERFIELD,) 1:10-CV-01497 LJO GSA HC
Petitioner,) ORDER GRANTING MOTION TO DISMISS
v.) [Doc. #4]
JAMES D. HARTLEY, Warden,)
Respondent.)

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

Petitioner filed the instant petition on August 19, 2010. On August 30, 2010, he filed a motion to dismiss the petition. He states the petition was erroneously filed in this Court. 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 the opposing party serves either an answer or a motion for summary judgment. At this time, Respondent has not filed a formal answer to the petition for writ of habeas corpus.

Accordingly, IT IS HEREBY ORDERED that the petition is DISMISSED without prejudice. The Clerk of Court is DIRECTED to enter judgment and close the case.

IT IS SO ORDERED.

Dated: September 7, 2010

/s/ Lawrence J. O'Neill

UNITED STATES DISTRICT JUDGE