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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

DAVID JOHNSON,

1:10-cv-02150-AWI-SMS (HC)

Petitioner,

ORDER DISMISSING PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO PETITIONER'S NOTICE OF VOLUNTARY DISMISSAL

v.

COALINGA STATE PRISON,

[Doc. 13]

Respondent.

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

On November 16, 2010, the petition was transferred to this Court from the United States District Court for the Northern District of California. On December 1, 2010, this Court issued an Order dismissing the petition with leave to amend. Petitioner filed a response to the Court's order on December 6, 2010. In his response, Petitioner appears to disagree with the transfer of the petition by the Northern District and states that he is not seeking habeas corpus relief and this Court may close the action. The Court construes Petitioner's response as a request to voluntarily dismiss the action pursuant to Rule 41(a) of the Federal Rules of Civil Procedure.

At this stage in the proceedings, Petitioner has the absolute right to dismiss the action, without prejudice. Duke Energy Trading and Marketing, L.L.C. v. Davis, 267 F.3d 1042, 1049 (9th Cir. 2001). The filing of the notice itself has the effect of closing the action, and the Court no longer has jurisdiction over the petition. Id.

1 Accordingly, the Clerk of the Court is HEREBY DIRECTED to close this file pursuant to
2 Petitioner's notice of voluntary dismissal filed on December 6, 2010.

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4 IT IS SO ORDERED.

5 Dated: December 14, 2010



6 CHIEF UNITED STATES DISTRICT JUDGE

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