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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

XIONG YENG,
Petitioner,

v.

RICK HILL, Warden,
Respondent.

Case No. 1:13-cv-01734-AWI-BAM-HC

ORDER GRANTING PETITIONER'S MOTION
FOR VOLUNTARY DISMISSAL OF THE
PETITION FOR WRIT OF HABEAS CORPUS
(DOC. 16)

ORDER DISMISSING THE PETITION
WITHOUT PREJUDICE (DOC. 1) AND
DIRECTING THE CLERK TO CLOSE THE
ACTION

Petitioner is a state prisoner proceeding pro se and in forma pauperis with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. Pending before the Court is the Petitioner's request for voluntary dismissal of the petition.

I. Voluntary Dismissal of the Petition

The named respondent has not appeared in the action. On December 23, 2014, Petitioner filed the instant motion for voluntary dismissal of the petition.

Subject to other provisions of law, a petitioner may voluntarily dismiss an action without leave of court before service

1 by the adverse party of an answer or motion for summary judgment.
2 Fed. R. Civ. P. 41(a). Otherwise, an action shall not be dismissed
3 except upon order of the court and upon such terms and conditions as
4 the court deems proper. Id.

5 Here, no answer or motion to dismiss has been served or filed.
6 Thus, Petitioner is entitled to dismissal.

7 II. Disposition

8 Accordingly, it is ORDERED that, pursuant to Petitioner's
9 voluntary dismissal, the petition for writ of habeas corpus is
10 DISMISSED without prejudice and the Clerk is DIRECTED to close this
11 action.

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13 IT IS SO ORDERED.

14 Dated: March 3, 2015



15 SENIOR DISTRICT JUDGE
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