

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

CHARLES SIMPSON,

 Petitioner,

 v.

CDCR,

 Respondent.

Case No. 1:14-cv-00962-AWI-SKO-HC

ORDER GRANTING PETITIONER'S MOTION
FOR VOLUNTARY DISMISSAL OF THE
PETITION FOR WRIT OF HABEAS CORPUS
(DOC. 10)

ORDER DISMISSING THE PETITION
WITHOUT PREJUDICE (DOC. 1),
DISMISSING PENDING FINDINGS AND
RECOMMENDATIONS AND MOTIONS AS MOOT
(DOCS. 2, 8), AND DIRECTING THE
CLERK TO CLOSE THE ACTION

Petitioner is a state prisoner proceeding with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. Pending before the Court is the Petitioner's request to withdraw the petition, which the Court understands to be a motion for voluntary dismissal of the petition.

I. Voluntary Dismissal of the Petition

The named respondent has not appeared in the action. On June 19, 2014, Petitioner filed a motion for injunctive relief. On October 14, 2014, the Magistrate Judge filed findings and recommendations to dismiss the petition for Petitioner's failure to

1 respond to the Court's orders regarding Magistrate Judge
2 jurisdiction. On October 29, 2014, Petitioner filed the instant
3 motion for voluntary dismissal of the petition.

4 Subject to other provisions of law, a petitioner may
5 voluntarily dismiss an action without leave of court before service
6 by the adverse party of an answer or motion for summary judgment.
7 Fed. R. Civ. P. 41(a). Otherwise, an action shall not be dismissed
8 except upon order of the court and upon such terms and conditions as
9 the court deems proper. Id.

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

12 II. Disposition

13 Accordingly, it is ORDERED that:

- 14 1) Petitioner's motion for voluntary dismissal is GRANTED; and
15 2) The motion for injunctive relief as well as the findings
16 and recommendations are DISMISSED as moot; and
17 3) The petition for writ of habeas corpus is DISMISSED without
18 prejudice; and
19 4) The Clerk is DIRECTED to close this action because this
20 order terminates the proceeding in its entirety.

21
22 IT IS SO ORDERED.

23 Dated: October 30, 2014



24 SENIOR DISTRICT JUDGE
25
26
27
28