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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

DOUGLAS K. COOK,

Petitioner,

No. CIV S-06-0070 GEB CHS P

vs.

KEN CLARK, Acting Warden,

Respondent.

FINDINGS AND RECOMMENDATIONS

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Petitioner Douglas K. Cook filed the pending petition for writ of habeas corpus pursuant to 28 U.S.C. §2254, challenging the constitutionality of his 2003 convictions entered in Sacramento County, case number 02F01771.

On November 25, 2009, the parties were directed to file a status report and on December 16, 2009, respondent filed a motion to dismiss accompanied by a certified confirmation of petitioner’s death on February 17, 2009, issued by the County of Sacramento Coroner’s Office. The file reflects that the petitioner had been paroled in December of 2007.

Article III of the Constitution limits federal courts to the adjudication of actual, ongoing controversies between litigants. *Deakins v. Monaghan*, 484 U.S. 193, 199 (1988). The basic question in determining mootness is “whether there is a present controversy as to which effective relief can be granted.” *Outdoor Media Group, Inc. v. City of Beaumont*, 506 F.3d 895,

1 900 (9th Cir. 2007). Due to the death of the petitioner in this action, there is no longer a present  
2 controversy in this case. The pending petition should be dismissed. *See Griffey v. Lindsey*, 349  
3 F.3d 1157 (9th Cir. 2003).

4 Accordingly, IT IS HEREBY RECOMMENDED that respondent's December 16,  
5 2009 motion to dismiss be granted, and the petitioner's application for writ of habeas corpus be  
6 DISMISSED.

7 These findings and recommendations are submitted to the United States District  
8 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty  
9 days after being served with these findings and recommendations, any party may file written  
10 objections with the court and serve a copy on all parties. Such a document should be captioned  
11 "Objections to Magistrate Judge's Findings and Recommendations." Any reply to the objections  
12 shall be served and filed within ten days after service of the objections. Failure to file objections  
13 within the specified time may waive the right to appeal the District Court's order. *Martinez v.*  
14 *Ylst*, 951 F.2d 1153 (9th Cir. 1991).

15 DATED: December 28, 2009

  
CHARLENE H. SORRENTINO  
UNITED STATES MAGISTRATE JUDGE