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

WILLIAM CUNNINGHAM,

Petitioner,

No. CIV S-06-2238 FCD DAD P

vs.

CLAUDE FINN, Warden,

Respondent.

ORDER

\_\_\_\_\_ /

Petitioner is a former state prisoner proceeding pro se with an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, challenging Governor Schwarzenegger’s 2005 reversal of the Board of Parole Hearings’ decision to grant him parole.

On January 15, 2009, respondent filed an answer to the petition. On January 26, 2009, petitioner filed a traverse. This matter was then submitted for decision. However, on February 20, 2009, petitioner was released from prison upon being again found suitable for parole by the Board of Parole Hearings. On March 6, 2009, respondent filed a motion to dismiss this action as moot.

Because petitioner has been found suitable for parole and has been released from prison, this action appears to be moot. Cantrell v. City of Long Beach, 241 F.3d 674, 678 (9th Cir. 2001) (case loses its quality as a “present, live controversy” and becomes moot when there

1 can be no effective relief). However, the court will provide petitioner with an opportunity to  
2 respond to respondent's motion to dismiss. Petitioner will be directed to either file an opposition  
3 to respondent's motion to dismiss explaining why this action has not been rendered moot or file a  
4 request to voluntarily dismiss this action.

5 Accordingly, IT IS HEREBY ORDERED that within thirty days of the date of  
6 service of this order petitioner shall either:

7 (1) file an opposition to respondent's motion to dismiss explaining why this  
8 action has not been rendered moot, or

9 (2) file a request to voluntarily dismiss this action.

10 DATED: August 18, 2009.

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DALE A. DROZD  
UNITED STATES MAGISTRATE JUDGE

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