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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JAMES ROCKERS,)	
)	NO. CV-06-2330 RHW JPH
)	
Petitioner,)	REPORT AND RECOMMENDATION
)	TO TERMINATE STAY AND GRANT
v.)	MOTION TO DISMISS PETITION
)	AS MOOT
)	
THERESA A. SCHWARTZ,)	
)	
)	
Respondent.)	

BEFORE THE COURT is Respondent's July 2, 2009, motion to dismiss the petition as moot (Ct. Rec. 35) because Mr. Rockers was granted parole on June 26, 2009, when the Governor declined to review the parole recently granted by the Board of Parole Hearings. (Ct. Rec. 35 at 2-3.) Petitioner has filed a statement on non-opposition to the dismissal. (Ct. Rec. 36.) The court has considered the motion and record herein.

The court finds the petition is moot because Mr. Rockers has been granted the relief requested in his petition. He was granted parole on June 26, 2009. Accordingly,

For the reasons stated above, **IT IS RECOMMENDED**, the temporary stay (Ct. Rec. 34) be terminated; Respondent's motion to dismiss (Ct. Rec. 35) be **GRANTED**; and the Petition for Writ of Habeas Corpus (Ct. Rec. 1) be **DENIED** as moot.

OBJECTIONS

Any party may object to the magistrate judge's proposed findings, recommendations or report within ten (10) days following service with a copy thereof. Such party shall file with the Clerk of the Court all written objections, specifically identifying the portions to which objection is being made, and the basis therefor.

1 Attention is directed to Fed. R. Civ. P. 6(e), which adds another
2 three (3) days from the date of mailing if service is by mail. A
3 district judge will make a de novo determination of those portions
4 to which objection is made and may accept, reject, or modify the
5 magistrate judge's determination. The district judge need not
6 conduct a new hearing or hear arguments and may consider the
7 magistrate judge's record and make an independent determination
8 thereon. The district judge may also receive further evidence or
9 recommit the matter to the magistrate judge with instructions. See
10 28 U.S.C. § 636 (b) (1) (CC), and Fed. R. Civ. P. 73. A magistrate
11 judge's recommendation cannot be appealed to a court of appeals;
12 only the district judge's order or judgment can be appealed.

13 The District Court Executive SHALL FILE this report and
14 recommendation and serve copies of it on the referring judge and
15 the parties.

16 DATED this 6th day of July, 2009.

17 s/ James P. Hutton
18 JAMES P. HUTTON
19 UNITED STATES MAGISTRATE JUDGE
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