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

WILLIAM CUNNINGHAM,

Petitioner,

No. 2:07-cv-1924-GEB-JFM (HC)

vs.

CLAUDE E. FINN, et al.,

Respondents.

FINDINGS & RECOMMENDATIONS

_____/

Petitioner is a former state prisoner on parole proceeding pro se with an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. By this action, petitioner challenges a 2006 decision of the California Board of Parole Hearings to deny him a parole date. On March 9, 2009, petitioner filed a notice of change of address in which he informed the court that he was found suitable for parole at a parole hearing on September 17, 2008 and released from state prison on February 20, 2009.

As a result of petitioner’s March 9, 2009 notice, by order filed March 13, 2009 the parties were ordered to file within twenty days briefs addressing whether this action should be dismissed as moot. On March 27, 2009, respondents filed a response to the order to show cause in which they contend that this action has been mooted by petitioner’s release from prison on parole. Petitioner has not responded in anyway to the order to show cause.

1 “A moot action is one in which the parties lack a legally cognizable interest in the
2 outcome.” Reimers v. State of Oregon, 863 F.2d 630, 632 (9th Cir. 1988). Petitioner has been
3 released on parole and there is no showing that any further relief would be available to petitioner
4 were the merits decided in his favor. Accordingly, this action should be dismissed as moot. See
5 Reimers, id.

6 In accordance with the above, IT IS HEREBY RECOMMENDED that this action
7 be dismissed as moot.

8 These findings and recommendations are submitted to the United States District
9 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty
10 days after being served with these findings and recommendations, petitioner may file written
11 objections with the court. The document should be captioned “Objections to Magistrate Judge’s
12 Findings and Recommendations.” Petitioner is advised that failure to file objections within the
13 specified time may waive the right to appeal the District Court’s order. Martinez v. Ylst, 951
14 F.2d 1153 (9th Cir. 1991).

15 DATED: April 14, 2009.

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18 UNITED STATES MAGISTRATE JUDGE

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