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

RAYMOND LARA,

Petitioner,

No. 2:09-cv-1966-FCD-JFM (HC)

vs.

J. HARTLEY,

Respondent .

ORDER

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Petitioner is a state prisoner proceeding pro se with an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. In his original petition, petitioner claimed that his constitutional rights have been violated by the California Board of Parole Hearings' (Board) application of certain provisions of state law to aggravate the facts of his underlying criminal offense with facts not found by a jury and to deny him good time conduct credits. On November 19, 2009, respondent filed a motion to dismiss, seeking dismissal for lack of jurisdiction on the ground the petitioner had failed to challenge a specific Board decision. By order filed April 23, 2010, petitioner's original petition was dismissed with leave to file an amended petition alleging how and when the Board took the action against him that he challenges by this action.

On May 19, 2010, petitioner filed a document styled as a motion to withdraw his application for writ of habeas corpus. After review of the motion, the court construes it as a

1 motion for voluntary dismissal of this action. See Fed. R. Civ. P. 41; Rule 12, 28 U.S.C. foll. §  
2 2254. Good cause appearing, IT IS HEREBY ORDERED that:

3 1. Petitioner's May 19, 2010 is construed as a motion for voluntary dismissal of  
4 this action pursuant to Fed. R. Civ. P. 41(a) and, so construed, is granted; and

5 2. This action is dismissed without prejudice. See Fed. R. Civ. P. 41(a).

6 DATED: May 24, 2010.

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9 UNITED STATES MAGISTRATE JUDGE

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