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

DOCK MCNEELY,

Petitioner,

No. CIV S-09-2520 WBS GGH P

vs.

S. M. SALINAS,

Warden,

ORDER

_____/

Petitioner, a state prisoner who had been proceeding pro se on a habeas petition under 28 U.S.C. § 2254, filed a notice of voluntarily dismissal of this action pursuant to Fed. R. Civ. P. 41(a)(1)(A), on May 19, 2010. In response to the court’s order, filed on May 27, 2010, directing respondent to notify the court within seven days of any objection to dismissal of this action, respondent, on June 1, 2010, replied that respondent had no objection to the dismissal.

Thereafter, on June 4, 2010, the May 26, 2010¹ order was vacated, this action was

¹ On May 26, 2010, in response to petitioner’s filing of May 6, 2009, entitled a motion for a TRO/preliminary injunction, which the court construed as a motion for a protective order, and as so modified, had granted, but only to the extent that respondent was directed to inform the court within seven days of steps taken to assure petitioner adequate law library access for him to frame objections to the then-pending findings and recommendations. As noted, this order was subsequently vacated. Thus, this order in no way provides petitioner a basis for withdrawing his voluntary dismissal of this case.

1 dismissed, pursuant to Fed. R. Civ. P. 41(a), and the Clerk was directed to close this case.

2 Petitioner's brief subsequent request to be permitted to withdraw his own notice
3 of voluntary dismissal because a (now-vacated) protective order was in some measure granted is
4 unavailing and is wholly insufficient to withdraw his own voluntary dismissal of this now-closed
5 case.

6 Accordingly, IT IS HEREBY ORDERED that petitioner's June 4, 2010 (docket #
7 59), request that his notice of voluntary dismissal be disregarded is denied.

8 DATED: June 11, 2010

/s/ Gregory G. Hollows

9 UNITED STATES MAGISTRATE JUDGE

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