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

FRANK CHEUNG,

Petitioner,

No. CIV S-09-3535 KJM DAD P

vs.

D. K. SISTO, Warden,

Respondent.

ORDER

_____ /

Petitioner is a state prisoner proceeding pro se with this application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. On June 3, 2011, the undersigned issued findings and recommendations recommending that petitioner’s application for habeas relief be denied. On June 24, 2011, petitioner filed a letter requesting that this action be withdrawn. Petitioner informs the court that he has been released from custody and is awaiting deportation. The court will construe petitioner’s letter as a request that this action be dismissed without prejudice.

In light of the above, IT IS HEREBY ORDERED that respondent shall notify this court, within ten days, whether he has any objection to the dismissal of this action.

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1 Should respondents fail to respond, petitioner's request will be granted pursuant to Fed. R. Civ.

2 P. 41(a). See Rule 11, Rules Governing Habeas Corpus Cases Under Section 2254.

3 DATED: July 5, 2011.

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DALE A. DROZD
UNITED STATES MAGISTRATE JUDGE

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