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

HAROLD E. CARMONY,

Petitioner,

No. CIV S-10-3381 GEB GGH P

vs.

STEPHEN MAYBERG, Director of D.M.H.,
et al.,

Respondent.

FINDINGS AND RECOMMENDATIONS

_____ /

Petitioner brought an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 challenging his continued confinement/civil commitment pursuant to the Sexually Violent Predator Act, Cal. Welf. & Inst. Code § 6600, et.seq.. On June 23, 2011, respondent filed a motion to dismiss based on petitioner’s death during the pendency of this action. By order filed on June 30, 2011, the court indicated it had been notified of petitioner’s death, pursuant to Fed. R. Civ. P. 25(a). It was further stated that within 90 days of service of the order, absent a motion for substitution of another party or an opposition to respondent’s motion to dismiss, the case would be dismissed. The order served upon petitioner was returned. On July 8, 2011, respondent’s counsel submitted a declaration, avowing that she had attached a true and correct copy of petitioner’s death certificate. Petitioner’s death is noted therein as having occurred on June 2, 2011.

