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

FRED HEMPSTEAD,)	
)	
Petitioner,)	No. C 06-7467 CRB (PR)
)	
v.)	ORDER OF DISMISSAL
)	
R. L. AYERS, JR., Warden,)	
)	
Respondent.)	(Doc. #17)
_____)	

Petitioner, a State of California prisoner incarcerated at San Quentin State Prison, has filed a pro se petition for a writ of habeas corpus under 28 U.S.C. § 2254 challenging the decision of the Governor of the State of California to revoke a parole date granted him by the California Board of Parole Hearings ("BPH") on his 17 years-to-life sentence for second degree murder with use of a firearm. Respondent has moved to dismiss the petition as moot because petitioner has been released on parole. Doc. #17. Petitioner has not opposed the motion.

It is undisputed that petitioner was granted a parole date on May 6, 2009, a decision which became final in October 2, 2009 when the governor declined to

1 review the matter. Doc. #17 at 2-3. Because BPH found petitioner suitable for
2 parole, and because petitioner has now been released on parole, the petition for a
3 writ of habeas corpus is DISMISSED as moot. See Fendler v. United States
4 Bureau of Prisons, 846 F.2d 550, 555 (9th Cir. 1988) (habeas challenge to denial
5 of parole will become moot if petitioner is released on parole before court
6 considers petition); see also Burnett v. Lampert, 432 F.3d 996, 999-1001 (9th Cir.
7 2005) (finding habeas petition still moot after petitioner violated parole and was
8 reincarcerated).

9 Respondent's motion to dismiss (Doc. #17) is GRANTED. The clerk
10 shall enter judgment in accordance with this order and close the file.

11 SO ORDERED.

12 DATED: Jan. 14, 2010



13 CHARLES R. BREYER
14 United States District Judge