

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

DEMETRIUS DANIEL,  
Petitioner,

No. C 07-01972 SBA (PR)

**ORDER OF DISMISSAL**

v.

ROBERT L. AYERS, JR., Warden,  
Respondent.

Petitioner Demetrius Daniel, a state prisoner, has filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 challenging the denial of parole by the California Board of Parole Hearings (Board) on February 7, 2006.


Petitioner has since filed another habeas action in this Court, in which he challenged a 2007 Board hearing and denial. See Daniel v. Ayers, Case No. C 08-03221 SBA (PR). On the same date as this Order, the Court has denied Respondent's motion to dismiss the petition in Case No. C 08-03221 SBA (PR). The Court also stated that it would address the merits of the petition in a separate written Order in C 08-03221 SBA (PR).

Here, Petitioner claims that the Board's 2006 denial of parole was unlawful. Because the Court will be considering the petition in Case No. C 08-03221 SBA (PR) relating to the Board's 2007 denial, the present petition for a writ of habeas corpus under 28 U.S.C. § 2254 is DISMISSED without prejudice as moot.

The Clerk of the Court shall terminate all pending motions and close the file.

IT IS SO ORDERED.

DATED: 12/17/09

  
SAUNDRA BROWN ARMSTRONG  
United States District Judge

1 UNITED STATES DISTRICT COURT  
2 FOR THE  
3 NORTHERN DISTRICT OF CALIFORNIA

4  
5  
6 DEMETRIUS DANIEL,  
7 Plaintiff,

Case Number: CV07-01972 SBA

**CERTIFICATE OF SERVICE**

8 v.

9 ROBERT L. AYERS et al,  
10 Defendant.

11  
12 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District  
Court, Northern District of California.

13 That on December 21, 2009, I SERVED a true and correct copy(ies) of the attached, by placing said  
14 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said  
15 envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle  
located in the Clerk's office.

16  
17 Demetrius Daniel E-03098  
18 San Quentin State Prison  
San Quentin, CA 94964

19  
20 Dated: December 21, 2009

Richard W. Wieking, Clerk  
By: LISA R CLARK, Deputy Clerk