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UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 OAKLAND DIVISION

CHARLES WANG,

Petitioner,

No. C 10-4629 PJH (PR)

vs.

Parole Officer CARLOS DE JESUS;  
 State CDCR HEAD; DEPARTMENT  
 OF CORRECTIONS; ELMWOOD  
 FACILITY CHIEF; STATE ATTORNEY  
 GENERAL; GOVERNOR OF STATE  
 OF CALIFORNIA,

**ORDER DISMISSING CASE  
 AS MOOT AND DENYING  
 CERTIFICATE OF  
 APPEALABILITY**

Respondents.

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This is a habeas case challenging a revocation of parole on January 5, 2010.

In its initial review order the court noted that it appeared from the allegations in the petition that petitioner might not have been in custody when he filed the petition, and that the case might be moot because he had served the revocation term. He was ordered to show cause why the case should not be dismissed for those reasons.

Petitioner has filed a "Motion to Amend" in response to the order to show cause. He does not address the court's concerns directly, but has attached a verified state habeas petition in which he clearly says that he was released in March of 2010, and he does not even suggest in his motion that he is still subject to any collateral effects of the revocation.

A petitioner who seeks to challenge the revocation of his parole must demonstrate that continuing collateral consequences exist if the underlying sentence has expired, see *Spencer v. Kemna*, 523 U.S. 1, 14-18 (1998), or if the term imposed for violating parole has been served, see *Cox v. McCarthy*, 829 F.2d 800, 803 (9th Cir. 1987) (claim moot because

1 petitioner cannot be released from term imposed for violating parole that he has already  
2 served). This case is moot.

3 The motion for leave to amend (document number 6 on the docket) is **DENIED** as  
4 unnecessary, as the court ordered petitioner to show cause in the initial review order. This  
5 case is **DISMISSED** as moot. The pending motion for ruling (document number 9) is  
6 **DENIED** as moot.

7 Because reasonable jurists would not find the court's ruling on mootness debatable  
8 or wrong, a certificate of appealability is **DENIED**. See Rule 11(a), Rules Governing  
9 § 2254 Cases, 28 U.S.C. foll. § 2254; see also 28 U.S.C. § 2253(c) (COA requirement);  
10 *Slack v. McDaniel*, 529 U.S. 473, 483 (2000) (standard). Petitioner is advised that he may  
11 not appeal the denial of a COA, but he may ask the court of appeals to issue a COA under  
12 Rule 22 of the Federal Rules of Appellate Procedure. See Rule 11(a), Rules Governing §  
13 2254 Cases.

14 The clerk shall close the file.

15 **IT IS SO ORDERED.**

16 Dated: August 30, 2011.



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PHYLLIS J. HAMILTON  
United States District Judge

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