

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

CHRISTOPHER ROBINSON,

Petitioner,

Case Number: 2:15-CV-13934

v.

HONORABLE SEAN F. COX
UNITED STATES DISTRICT
JUDGE

SHERMAN CAMPBELL,

Respondent.

**OPINION AND ORDER GRANTING PETITIONER'S
REQUEST FOR VOLUNTARY DISMISSAL**

Michigan state prisoner Christopher Robinson filed a *pro se* petition for writ of habeas corpus under 28 U.S.C. § 2254. Now before the Court is Petitioner's Motion to Dismiss Petition for Writ of Habeas Corpus.

Respondent has not opposed the motion.

Federal Rule of Civil Procedure 41(a)(2) provides:

Except as provided in Rule 41(a)(1), an action may be dismissed at the plaintiff's request only by court order, on terms that the court considers proper. If a defendant has pleaded a counterclaim before being served with the plaintiff's motion to dismiss, the action may be dismissed over the defendant's objection only if the counterclaim can remain pending for independent adjudication. Unless the order states otherwise, a dismissal under this paragraph (2) is without prejudice.

Fed. R. Civ. P. 41(a)(2). "Whether dismissal should be granted under the authority of Rule 41(a)(2) is within the sound discretion of the district court."

Grover by Grover v. Eli Lilly & Co., 33 F.3d 716, 718 (6th Cir. 1994). Rule 41(a)(2) is designed “to protect the nonmovant from unfair treatment.” *Id.*

Because Respondent does not oppose Petitioner’s motion for voluntary dismissal and Respondent would suffer no unfair treatment from dismissal of this action, the Court will grant the motion and dismiss the case without prejudice.

Additionally, the Court denies a certificate of appealability as reasonable jurists could not debate the correctness of the Court’s procedural ruling. See 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b); *Slack v. McDaniel*, 529 U.S. 473, 484-85 (2000). This case is closed.

The Court **GRANTS** Petitioner’s Motion to Dismiss Petition for Writ of Habeas Corpus (ECF No. 16) and the matter is **DISMISSED WITHOUT PREJUDICE**. The remaining motions pending on the Court’s docket (ECF Nos. 3, 8, 10, 11, 13, 15, and 16) are **DENIED AS MOOT**.

SO ORDERED.

s/Sean F. Cox _____
Sean F. Cox
United States District Judge

Dated: September 2, 2016

I hereby certify that a copy of the foregoing document was served upon counsel of record on September 2, 2016, by electronic and/or ordinary mail.

S/Shawna C. Burns
Case Manager Generalist