

D/F

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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EYAL COHEN,

Petitioner,

-against-

OPINION & ORDER
09 CV 00108 (SJF)

SHERIFF OF NASSAU
COUNTY et al.,

Respondents.

-----X

FEUERSTEIN, J.

The unopposed motion of respondents the Sheriff of Nassau County and the Warden of the Nassau County Correctional Center to dismiss *pro se* petitioner Eyal Cohen's ("Petitioner") petition ("Petition") seeking a writ of habeas corpus pursuant to 28 U.S.C. § 2254 is granted based upon, *inter alia*, the Petition is moot. See Whaley v. Graham, No. 06 Civ. 3843, 2008 WL 4693318, *3-6 (E.D.N.Y. Oct. 15, 2008).

Since Petitioner has failed to make a substantial showing of a denial of a constitutional right, a certificate of appealability will not issue. 28 U.S.C. § 2253; see also Miller-El v. Cockrell, 537 U.S. 322, 336, 123 S.Ct. 1029, 154 L.Ed.2d 931 (2003); Luciadore v. New York State Div. of Parole, 209 F.3d 107, 112 (2d Cir. 2000); Kellogg v. Strack, 269 F.3d 100, 102 (2d Cir. 2001). Petitioner has a right to seek a certificate of appealability from the Court of Appeals for the Second Circuit. See 28 U.S.C. § 2253. ~~The~~ Clerk of the Court is directed to close.

SO ORDERED.



Sandra J. Feuerstein
United States District Judge

Dated: June 4, 2009
Central Islip, New York

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