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6   UNITED STATES DISTRICT COURT
                             WESTERN DISTRICT OF WASHINGTON
7   AT SEATTLE

8   SERGIO GONZALEZ-GUZMAN,

9   Petitioner,   Case No. C15-1867-RSL

10   v.

11   JEFFERY A. UTTECHT,   ORDER GRANTING PETITIONER'S
                                                  MOTION TO DISMISS
12   Respondent.

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14   On August 26, 2015, Petitioner Sergio Gonzalez-Guzman filed a *pro se* petition for writ

15   of habeas corpus under 28 U.S.C. § 2254 with the United States District Court for the Eastern

16   District of Washington. (Dkt. # 1.) On November 17, 2015, the case was transferred to this

17   District because Petitioner was seeking to challenge a King County Superior Court judgment.

18   (Dkt. # 9.) After the case arrived in this District, counsel was appointed to represent Petitioner

19   and a deadline was established for Petitioner's newly appointed counsel to file an amended

20   petition. (Dkt. # 14.) Prior to filing an amended petition, Petitioner's counsel moved to stay and

21   abey Petitioner's federal habeas proceedings pending completion of anticipated state court

22   collateral proceedings. (Dkt. # 17.)

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     ORDER GRANTING PETITIONER'S
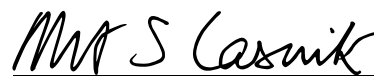   MOTION TO DISMISS - 1

1   The Court thereafter ordered that Petitioner's original petition and his motion to stay and

2 abey be served on Respondent, and that Respondent file a response only to Petitioner's motion to

3 stay and abey. (Dkt. # 18.) Respondent indicated in his response to Petitioner's motion that he

4 did not oppose the requested stay and, on July 1, 2016, the Court issued an Order granting the

5 motion and staying this action pending completion of Petitioner's state court collateral

6 proceedings. (Dkt. ## 22, 23.) Petitioner was subsequently directed to file a report every 180

7 days advising the Court of the status of his state court proceedings. (Dkt. # 25.)

8   On April 30, 2019, the Court received from Petitioner a status report and motion to

9 dismiss his federal habeas petition. (Dkt. # 29.) Petitioner's counsel explains therein that

10 Petitioner's conviction was vacated by the King County Superior Court on September 20, 2018

11 and a new trial date was set. (*Id.*) However, Petitioner has since been deported and is therefore

12 unavailable to be brought to court for trial. (*Id.*) Counsel further explains that the Washington

13 Court of Appeals has issued a mandate terminating its involvement in the case and it thus

14 appears that Petitioner's habeas petition is moot. (*Id.*)

15   Though Petitioner's federal habeas petition was served on Respondent, Respondent has

16 never filed an answer or other responsive pleading. It is therefore appropriate to treat Petitioner's

17 motion as a request for voluntary dismissal and to terminate this action without seeking a

18 response from Respondent. Accordingly, Petitioner's motion to dismiss (dkt. # 29) is

19 GRANTED and this federal habeas action is DISMISSED without prejudice.

20   DATED this 23rd day of May, 2019.

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22   Robert S. Lasnik
                            United States District Judge

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ORDER GRANTING PETITIONER'S
MOTION TO DISMISS - 2

1 Recommended for Entry this
23rd day of May, 2019.

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 s/Michelle L. Peterson
4 MICHELLE L. PETERSON
United States Magistrate Judge

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ORDER GRANTING PETITIONER'S
MOTION TO DISMISS - 3