

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

NOV 23 2022

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

DANIEL COBB,

Petitioner-Appellant,

v.

CATRICIA HOWARD, Complex Warden,

Respondent-Appellee.

No. 22-15073

D.C. No. 4:20-cv-00515-LCK

MEMORANDUM\*

Appeal from the United States District Court  
for the District of Arizona  
Lynnette C. Kimmins, Magistrate Judge, Presiding\*\*

Submitted November 15, 2022\*\*\*

Before: CANBY, CALLAHAN, and BADE, Circuit Judges.

Federal prisoner Daniel Cobb appeals pro se from the district court's judgment dismissing his 28 U.S.C. § 2241 habeas corpus petition, which challenged a prison disciplinary proceeding that resulted in the loss of good

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\* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

\*\* The parties consented to proceed before a magistrate judge.

\*\*\* The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

conduct time credits. We have jurisdiction under 28 U.S.C. § 1291. We review de novo the dismissal of a § 2241 petition, *see Alaimalo v. United States*, 645 F.3d 1042, 1047 (9th Cir. 2011), and we affirm.

The district court dismissed Cobb's § 2241 petition as moot because the record showed that, after Cobb filed his petition, the Bureau of Prisons ("BOP") restored the good conduct time that had been forfeited in his disciplinary proceedings. Cobb concedes that the good conduct time has been restored, but contends that the district court erred by ruling on his petition before the government could correct alleged errors in its response and before all processes were completed under Federal Rule of Civil Procedure 11.

The district court properly dismissed Cobb's § 2241 petition as moot, *see Spencer v. Kemna*, 523 U.S. 1, 7 (1998), and correctly concluded that none of the statements in the government's response to which Cobb objected were material to that jurisdictional issue. Moreover, we find no error in the timing of the district court's order denying his petition because there is no indication in the record that Cobb had taken any of the steps required by Rule 11. Finally, the record does not support Cobb's assertion that the magistrate judge was biased.

We do not consider Cobb's allegations that BOP staff are retaliating against him because they are beyond the scope of this appeal.

Cobb's request to strike portions of the supplemental excerpts of record is

denied.

The opening brief was provisionally sealed because it contains confidential information that should have been redacted prior to filing. The Clerk will maintain the opening brief at Docket Entry No. 3 under seal in accordance with Ninth Circuit Rule 27-13.

**AFFIRMED.**