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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

PIERRE CLIFTON MARSHALL,	)	CASE NO. CV 14-3649-BRO (PJW)
	)	
Petitioner,	)	
	)	ORDER DISMISSING HABEAS CORPUS
v.	)	PETITION
	)	
LOUIS MILUSNIC, WARDEN,	)	
	)	
Respondent.	)	
_____	)	

On May 13, 2014, Petitioner, who is currently incarcerated in the Federal Correctional Complex in Adelanto, California, filed the instant Petition for Writ of Habeas Corpus, pursuant to 28 U.S.C. § 2241, alleging that, in August 2006, he was denied his right to procedural due process after a private contractor, rather than a federal Bureau of Prisons ("BOP") employee, conducted a disciplinary hearing, found him guilty of a rules violation, and sanctioned him to a loss of 80 days good-time credits. (Petition at 3; Memorandum of Points and Authorities at 2-3.) Petitioner argued that the private contractor was not authorized to discipline him. He requested that, as a result, his good-time credits be restored and the disciplinary report be expunged from his prison record. (Memorandum of Points and Authorities at 10.)

1 In response to the Petition, on June 25, 2014, the BOP vacated  
2 the disciplinary findings and conducted a new hearing before a BOP  
3 employee acting as the Hearings Officer. That Hearings Officer found  
4 Petitioner guilty and imposed the same sanctions that had been  
5 originally imposed. (Motion to Dismiss at 1-2; Decl. of R.A. Byrd at  
6 ¶¶ 4-7; Exh. B.) Thereafter, on June 27, 2014, Respondent filed a  
7 motion to dismiss the instant Petition on the ground that Petitioner's  
8 claim for relief was now moot.

9 Petitioner opposed the motion, arguing that the Petition was not  
10 moot because his good-time credits had not been restored and the 2006  
11 Hearing Officer's findings and conclusions had not been expunged. He  
12 also argued that the BOP should not have held a new hearing because it  
13 no longer had jurisdiction to conduct a hearing once he had filed the  
14 Petition. (Opposition at 4-11.) For the following reasons, the Court  
15 rejects these arguments.

16 The basis of the Petition was that the prison officer who  
17 presided over his 2006 disciplinary hearing was not a BOP employee.  
18 (Petition at 3.) That error, assuming that it was error, was mooted  
19 by the BOP's decision to vacate the 2006 findings by the non-BOP  
20 employee and to hold a new hearing with a BOP employee. Because  
21 Petitioner's claimed due process violation has been cured with the new  
22 hearing, his complaint is moot. See *Harper v. Lee*, 938 F.2d 104, 105  
23 (8th Cir. 1991) (holding due process violations cured where prisoner  
24 granted new hearing); *Batanic v. INS*, 12 F.3d 662, 667 (7th Cir. 1993)  
25 ("Generally speaking, procedural errors are cured by holding a new  
26 hearing in compliance with due process requirements.").

27 As to Petitioner's claim that the BOP did not have jurisdiction  
28 to hold a new hearing once he filed this Petition, the Court

1 disagrees. There is no authority supporting that argument. And, even  
2 if there was, it is an issue that Petitioner must raise in a separate  
3 challenge to the second hearing once he has exhausted his  
4 administrative remedies as to that hearing. See, e.g., *Martinez v.*  
5 *Roberts*, 804 F.2d 570, 571 (9th Cir. 1986); see also *Ward v. Chavez*,  
6 678 F.3d 1042, 1045 (9th Cir. 2012) ("As a prudential matter, courts  
7 require that habeas petitioners exhaust all available judicial and  
8 administrative remedies before seeking relief under § 2241."). The  
9 same holds true for his claims that he was denied his right to call  
10 witnesses, present evidence, or make a statement on his own behalf at  
11 the June 2014 hearing. (Decl. of Petitioner, attached to Opposition,  
12 at ¶¶ 12-14.) Until such time, he may not proceed in this court. For  
13 these reasons the Petition is denied and the action is dismissed.

14 IT IS SO ORDERED.

15 DATED: August 5, 2014.



18 BEVERLY REID O'CONNELL  
UNITED STATES DISTRICT JUDGE

19 Presented by:



21 PATRICK J. WALSH  
UNITED STATES MAGISTRATE JUDGE