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**UNITED STATES DISTRICT COURT**  
EASTERN DISTRICT OF CALIFORNIA

JOSE JAIMES-PEREZ,  
Petitioner,  
v.  
MICHAEL L. BENOVA,  
Respondent.

Case No. 1:14-cv-00380-LJO-SAB-HC  
FINDINGS AND RECOMMENDATION  
REGARDING RESPONDENT’S MOTION  
TO DISMISS  
[ECF NO. 13]

Petitioner is proceeding pro se with an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2241.

On March 19, 2014, Petitioner filed the instant petition for writ of habeas corpus. On July 7, 2014, Respondent filed a motion to dismiss the petition as moot in light of Petitioner’s release from custody.

**DISCUSSION**

The case or controversy requirement of Article III of the Federal Constitution deprives the Court of jurisdiction to hear moot cases. Iron Arrow Honor Soc’y v. Heckler, 464 U.S. 67, 70 (1983); NAACP, W. Region v. City of Richmond, 743 F.2d 1346, 1352 (9th Cir. 1984). A case becomes moot if “the issues presented are no longer live or the parties lack a legally cognizable interest in the outcome.” Murphy v. Hunt, 455 U.S. 478, 481 (1984). The Federal Court is “without power to decide questions that cannot affect the rights of the litigants before

1 them.” North Carolina v. Rice, 404 U.S. 244, 246 (1971) (quoting Aetna Life Ins. Co. v.  
2 Hayworth, 300 U.S. 227, 240-241 (1937)).

3 In this case, Petitioner contends that his due process rights were violated during a  
4 disciplinary hearing. However, Petitioner has since been released from custody. Therefore,  
5 there is no further relief that this Court can grant. The instant petition is moot.

6 **RECOMMENDATION**

7 Accordingly, the Court HEREBY RECOMMENDS that Respondent’s motion to dismiss  
8 be GRANTED and this action be DISMISSED for mootness.

9 This Findings and Recommendation is submitted to the Honorable Lawrence J. O’Neill,  
10 United States District Court Judge, pursuant to the provisions of 28 U.S.C. § 636 (b)(1)(B) and  
11 Rule 304 of the Local Rules of Practice for the United States District Court, Eastern District of  
12 California. Within fourteen (14) days of the date of service of this Findings and  
13 Recommendation, any party may file written objections with the Court and serve a copy on all  
14 parties. Such a document should be captioned “Objections to Magistrate Judge’s Findings and  
15 Recommendations.” Replies to the objections shall be served and filed within fourteen (14) days  
16 after service of the objections. The Court will then review the Magistrate Judge’s ruling  
17 pursuant to 28 U.S.C. § 636 (b)(1)(C). The parties are advised that failure to file objections  
18 within the specified time may waive the right to appeal the District Court’s order. Martinez v.  
19 Ylst, 951 F.2d 1153 (9th Cir. 1991).

20 IT IS SO ORDERED.

21 Dated: August 6, 2014

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24 UNITED STATES MAGISTRATE JUDGE  
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