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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JOHNNY MIKE TORRES,

 Petitioner,

 v.

DHS/ICE,

 Respondent.

Case No. 1:15-cv-01841-SAB-HC

ORDER DISMISSING AS MOOT PETITION
FOR WRIT OF HABEAS CORPUS AND
DIRECTING CLERK OF COURT TO
CLOSE CASE

Petitioner is a federal immigration detainee proceeding pro se with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241. The parties have consented to the jurisdiction of the United States Magistrate Judge. (ECF Nos. 12, 13).¹

I.

BACKGROUND

Petitioner is a citizen of Belize who was ordered removed on November 5, 2013, by an Immigration Judge (“IJ”) on the basis that Petitioner was removable as a non-citizen present without being admitted or paroled pursuant to 8 U.S.C. § 1182(a)(6)(A)(i). (ECF No. 18 at 2).²

¹ The Court notes Petitioner subsequently attempted to withdraw his consent to magistrate judge jurisdiction “upon greater consideration of the magnitude of this case, and in the interest of justice.” (ECF No. 19 at 1). The Court denied Petitioner’s motion because he failed to make a showing of “extraordinary circumstances” to justify withdrawal of his voluntary consent. (ECF No. 20).

² Page numbers refer to the ECF page numbers stamped at the top of the page.

1 Since July 5, 2013, Petitioner has been in immigration custody.³ On March 12, 2014, Petitioner
2 was given a bond hearing before an IJ pursuant to Rodriguez v. Robbins (Rodriguez II), 715 F.3d
3 1127 (9th Cir. 2013). At the hearing, the IJ found Petitioner a flight risk and a danger to the
4 community, and ordered Petitioner detained without bond. (ECF No. 18 at 2–3, 6). Petitioner
5 waived appeal to the Board of Immigration Appeals.⁴ (Id. at 3, 6).

6 On July 8, 2015, Petitioner filed the instant petition for writ of habeas corpus in the
7 United States District Court for the Central District of California. (ECF No. 1). On December 8,
8 2015, the matter was transferred to this Court. (ECF No. 6). Respondent has filed an answer to
9 the petition. (ECF No. 18). Subsequently, on March 15, 2016, Petitioner received a second
10 Rodriguez bond hearing. The IJ determined that Petitioner should remain in custody because he
11 was a flight risk and a danger to the community. (ECF No. 21 at 1, 4).

12 II.

13 DISCUSSION

14 The Court has “an independent duty to consider *sua sponte* whether a case is moot.”
15 Demery v. Arpaio, 378 F.3d 1020, 1025 (9th Cir. 2004) (citing Dittman v. California, 191 F.3d
16 1020, 1025 (9th Cir. 1999)). Article III of the United States Constitution limits the jurisdiction of
17 federal courts to “actual, ongoing cases or controversies.” Lewis v. Continental Bank Corp., 494
18 U.S. 472, 477 (1990). “This case-or-controversy requirement subsists through all stages of
19 federal judicial proceedings,” which “means that, throughout the litigation, the plaintiff ‘must
20 have suffered, or be threatened with, an actual injury traceable to the defendant and *likely to be*
21 *redressed by a favorable judicial decision.*” Spencer v. Kemna, 523 U.S. 1, 7 (1998) (emphasis
22 added) (quoting Lewis, 494 U.S. at 477).

23 If the Court were to find that habeas relief is warranted in the instant case, the remedy to
24 which Petitioner would be entitled is a new hearing “before an Immigration Judge with the

25 _____
26 ³ Petitioner entered the custody of the Los Angeles County Sheriff on a detainer for a felony domestic violence
warrant on July 3, 2014, but returned to immigration detention shortly thereafter. (ECF No. 18 at 2).

27 ⁴ In the petition, Petitioner contends that “he waived his right to appeal inadvertently.” (ECF No. 1 at 5). Although
28 Petitioner sought to reinstate his right to appeal, the IJ denied Petitioner’s request on June 5, 2014. (ECF No. 18 at 3
n.1).

1 power to grant [Petitioner] bail unless the government establishes that he is a flight risk or will
2 be a danger to the community.” Casas-Castrillon v. DHS, 535 F.3d 942, 952 (9th Cir. 2008). See
3 also Singh v. Holder, 638 F.3d 1196, 1205–06 (9th Cir. 2011) (remanding “this case to the
4 district court with instructions to grant the writ and order Singh’s release unless within 45 days
5 of the district court’s order the agency provides Singh a new [bond] hearing applying the proper
6 standard”). After the instant petition was filed, Petitioner received a new Rodriguez bond
7 hearing, at which the IJ determined that Petitioner should remain in custody because he was a
8 flight risk and a danger to the community. (ECF No. 21 at 1). Given that the new Rodriguez
9 bond hearing provided Petitioner with the remedy to which he would have been entitled had this
10 Court rendered a favorable judicial decision on his petition, the Court finds that no case or
11 controversy exists.

12 **III.**

13 **ORDER**

14 Accordingly, the Court HEREBY ORDERS that:

- 15 1. The petition for writ of habeas corpus is DISMISSED as MOOT; and
16 2. The Clerk of Court is DIRECTED to CLOSE the case.

17 IT IS SO ORDERED.

18 Dated: August 19, 2016

19 

20 UNITED STATES MAGISTRATE JUDGE