

1
2
3
4
5
6 UNITED STATES DISTRICT COURT
7 FOR THE EASTERN DISTRICT OF CALIFORNIA
8

9 RAFAEL FRANCISCO DEPAZ,
10

11 Petitioner,

12 v.

13 DHS ICE,
14

15 Respondent.

Case No. 1:18-cv-00820-JDP

FINDINGS AND RECOMMENDATIONS
TO GRANT RESPONDENT’S MOTION TO
DISMISS

(Doc. No. 7.)

OBJECTIONS, IF ANY, DUE IN 14 DAYS

ORDER DIRECTING CLERK OF COURT
TO ASSIGN DISTRICT JUDGE

16 Petitioner Rafael Francisco DePaz was detained by the U.S. Bureau of Immigration and
17 Customs Enforcement (“ICE”) at the time he filed a petition for a writ of habeas corpus under
18 28 U.S.C. § 2241. This court issued an order to show cause requiring respondent to show cause
19 why DePaz should not be released immediately from ICE custody. (Doc. No. 3.)

20 Respondent has filed a response to that included a motion to dismiss the petition for
21 mootness. (Doc. No. 7.) Respondent states that DePaz has been released from custody under
22 an order of an immigration judge. (*See id.* at 1.) In support of this contention, respondent has
23 submitted a copy of the order of the immigration judge dated July 26, 2018. (Doc. No. 7-1.)

24 DePaz has not responded to the motion to dismiss.

25 For these reasons:

- 26 1. The order to show cause (Doc. No. 3) is discharged;
27 2. The clerk of the court is directed to assign a district judge to this case;
28

1 3. Respondent is directed to mail a copy of these findings and recommendations to
2 petitioner at his last known address; and

3 4. It is recommended that:

- 4 a. respondent's motion to dismiss (Doc. No. 7) be granted;
- 5 b. the petition for writ of habeas corpus (Doc. No. 1) be denied as moot; and
- 6 c. the clerk be directed to close this case.

7 All motions must be submitted on the record, and briefs must be filed without oral
8 argument unless otherwise ordered by the court. *See* Local Rule 230(l). The court will grant
9 extensions only upon a showing of good cause. If a party requires an extension, that party
10 should file a motion for amendment of the schedule before the relevant deadline has passed and
11 should explain in detail why an extension is required. Local Rule 110 applies to this order.
12 These findings and recommendations will be submitted to the U.S. district judge assigned to the
13 case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within fourteen (14) days of
14 service of these findings and recommendations, plaintiff may file written objections with the
15 court. If plaintiff files such objections, he should do so in a document captioned "Objections to
16 Magistrate Judge's Findings and Recommendations." Plaintiff is advised that failure to file
17 objections within the specified time may result in the waiver of rights on appeal. *See Wilkerson*
18 *v. Wheeler*, 772 F.3d 834, 838-39 (9th Cir. 2014) (citing *Baxter v. Sullivan*, 923 F.2d 1391,
19 1394 (9th Cir. 1991)).

20
21 IT IS SO ORDERED.

22 Dated: September 2, 2018

23 
24 UNITED STATES MAGISTRATE JUDGE