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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

SATNAM SINGH,

No. CIV S-08-2366 FCD EFB P

Petitioner/Plaintiff,

vs.

MICHAEL CHERTOFF, et al.,

FINDINGS AND RECOMMENDATIONS

Respondents/Defendants.

_____/

Petitioner, a permanent resident attempting to bring his family into the United States from India, filed the instant action under 28 U.S.C. § 1361 and 5 U.S.C. § 701 to compel respondents to process the immigrant application for his family. On December 15, 2009, respondents filed a motion to dismiss the case for lack of subject matter jurisdiction, submitting a declaration attesting that the immigrant application would be adjudicated within 60 days. Dckt. No. 18. Petitioner has filed a statement of non-opposition to the motion, because “he has secured the relief he sought from the government, and thus there is no case or controversy, and therefore the proceedings are moot.” Dckt. No. 21.

“A case is moot if the issues presented are no longer live and there fails to be a ‘case or controversy’ under Article III of the Constitution.” *In re Burrell*, 415 F.3d 994, 998 (9th Cir. 2005). Federal courts lack subject matter jurisdiction over moot cases. *Id.* As the parties agree

1 that the instant case no longer presents a live issue, respondents' motion to dismiss for lack of
2 subject matter jurisdiction should be granted.

3 In accordance with the above, it is hereby RECOMMENDED that:

- 4 1. Respondents' December 15, 2009 motion to dismiss be granted;
- 5 2. This case be dismissed without prejudice; and,
- 6 3. The Clerk be directed to close the case.

7 These findings and recommendations are submitted to the United States District Judge
8 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
9 after being served with these findings and recommendations, any party may file written
10 objections with the court and serve a copy on all parties. Such a document should be captioned
11 "Objections to Magistrate Judge's Findings and Recommendations." Failure to file objections
12 within the specified time may waive the right to appeal the District Court's order. *Turner v.*
13 *Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

14 DATED: August 11, 2010.

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EDMUND F. BRENNAN
UNITED STATES MAGISTRATE JUDGE