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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

Gevorg Avazian,

Plaintiff,

v.

Rand Beers, Acting Secretary of the
Department of Homeland Security, Alejandro
Mayorkas, Director, U.S. Citizenship and
Immigration Services; Mari-Carmen Jordan,
Director, U.S. Citizenship and Immigration
Services, Sacramento Office, and Michael C.
Biggs, Field Officer Director, U.S. Citizenship
and Immigration Services, Sacramento Office.

Defendant.

No. 2:13-cv-02589-KJM

ORDER

Defendants request this case be dismissed under Federal Rule of Civil Procedure 12(b)(1), arguing the requested remedy has already been provided to plaintiff, mooted his claim. *See* Mot., ECF No. 29. The motion is unopposed.

On December 13, 2013, Mr. Avazian¹ filed his complaint, requesting a writ of mandamus compelling adjudication of his request for a hearing on a decision in naturalization proceedings, otherwise referenced as an N-336. *See* Compl. at 1–2, ECF No. 1. On May 19, 2016, the parties

¹ At certain places in the record plaintiff's last name is spelled Aivazian. *See, e.g.*, Compl. ¶ 15 *passim*; Mot. Ex. A, ECF No. 29-1 at 1.

1 filed a joint motion requesting the case be held in abeyance, pending the result of removal
2 proceedings against Mr. Avazian. *See* Jt. Stip. re Abeyance, ECF No. 18. The court approved the
3 stipulation. ECF No. 19. The parties continued to stipulate to extensions, which the court
4 granted for good cause. Most recently, on May 19, 2020, the court granted a further extension
5 request due to the suspension of immigration proceedings during the COVID-19 pandemic. *See*
6 ECF Nos. 27, 28. This latest extension is set to expire February 20, 2021. *Id.* On September 17,
7 2020, defendants filed this motion requesting dismissal, attaching a decision regarding Mr.
8 Avazian’s N-336, dated April 28, 2014. Mot. at 1 & Ex. A, ECF No. 29-1.

9 Federal courts may only resolve cases and controversies. U.S. CONST. art. III, § 2, cl. 1;
10 *Warth v. Seldin*, 422 U.S. 490, 499 (1975). Because of this limited jurisdiction, cases lie outside
11 the jurisdiction of the court unless proven otherwise. *Kokkonen v. Guardian Life Ins. Co. of Am.*,
12 511 U.S. 375, 377 (1994). There are a number of “doctrines that cluster about Article III,”
13 including standing and mootness, which may support a challenge to subject matter jurisdiction
14 raised by either party or *sua sponte* by the court. *Allen v. Wright*, 468 U.S. 737, 750 (1984)
15 (quotations and citation omitted); Fed. R. Civ. P. 12(b)(1). A Rule 12(b)(1) jurisdictional attack
16 may be either facial or factual. *White v. Lee*, 227 F.3d 1214, 1242 (9th Cir. 2000) (citation
17 omitted). Here, defendants mount a facial attack, challenging the complaint on its face as lacking
18 federal jurisdiction. In a facial attack, allegations in the complaint are taken as true and construed
19 in the light most favorable to a plaintiff. *Id.*

20 Mootness is triggered when the injury giving rise to the case no longer exists. *Powell v.*
21 *McCormack*, 395 U.S. 486, 496 (1969). A claim becomes moot when “interim relief or events
22 have completely and irrevocably eradicated the effects of the alleged violation” at issue. *Los*
23 *Angeles Cty. v. Davis*, 440 U.S. 625, 631 (1979).

24 Here, plaintiff’s complaint sought a writ of mandamus to “[c]ompel [d]efendants to
25 perform their duty or duties to complete processing, including but not limited to, adjudication of
26 Mr. Avazian’s [r]equest for a [h]earing of a [d]ecision in [n]aturalization [p]roceedings.” Compl.
27 at 9, ECF No. 1. Plaintiff did not allege a certain result is compelled by law, nor does he request
28 any relief beyond the resolution of his N-336 application. *See generally id.* The April 28, 2014

1 determination the government has now provided is the relief he was requesting, and the only
2 relief available based on the complaint. Thus, the court is not in a position to provide “any
3 effective relief.” *Northwest Environmental Defense Center v. Gordon*, 849 F.2d 1241, 1244 (9th
4 Cir. 1988) (internal quotation omitted).

5 The motion is **granted** and the case is **dismissed with prejudice**.

6 This order resolves ECF No. 29. The Clerk of Court is directed to **close** this case.

7 IT IS SO ORDERED.

8 DATED: December 30, 2020.


CHIEF UNITED STATES DISTRICT JUDGE