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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOSE ANTONIO DURAN,  
Petitioner,  
v.  
SCORTT FRAUENHEIM,  
Respondent.

No. 2:17-cv-02122 -DJC-AC  
ORDER TO SHOW CAUSE

On April 7, 2023, the Court issued an order reassigning the present action from Chief Judge Kimberly J. Mueller to District Judge Daniel J. Calabretta. (ECF No. 32.) That order was served by mail on Petitioner Jose Antonio Duran. This order was returned to the court marked as undeliverable on April 17, 2023. Pursuant to Local Rule 183(b), pro se parties are required to keep the Court and opposing parties advised of their current address. Failure of a pro se party to notify the Court of their new address within 63 days of mail being returned undelivered may result in the dismissal of the action without prejudice for failure to prosecute. L.R. 183(b). The 63-period to notify the Court after the April 7, 2023 order was returned undeliverable has passed.

The Magistrate Judge has issued Findings and Recommendations which recommend that this action be dismissed for failure to prosecute. (ECF No. 33.) Those Findings and Recommendations were also returned undelivered. A review of

1 publicly available records indicates that Petitioner may no longer be in the custody of  
2 the California Department of Corrections and Rehabilitation.<sup>1</sup> The release of a  
3 petitioner may render a habeas petition moot where there is no longer a live  
4 controversy. *Abdala v. INS*, 488 F.3d 1061, 1064 (9th Cir. 2007); see U.S. CONST.  
5 art. III. § 2. A live controversy does not exist if, following a petitioner's release, there is  
6 no longer a collateral consequence of that petitioner's conviction that may be  
7 redressed by the Court. *Id.* Here, it appears Petitioner has been released from  
8 custody but it is not apparent that there is any remaining collateral consequence of  
9 Petitioner's habeas petition that may be redressed if the petition is successful.

10 Accordingly, IT IS HEREBY ORDERED that within fourteen (14) days of this  
11 order, Petitioner shall show cause in writing why this action should not be dismissed  
12 as moot and for failure to prosecute. See *Abdala*, 488 F.3d at 1064; see also L.R.  
13 183(b), 230(c).

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15 IT IS SO ORDERED.

16 Dated: September 6, 2023

  
17 Hon. Daniel J. Calabretta  
18 UNITED STATES DISTRICT JUDGE

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27 <sup>1</sup> The California Department of Corrections and Rehabilitation provides an online "Inmate Locator"  
28 identifying the institution in which an inmate is currently held. The Inmate Locator can be accessed at  
<https://inmatelocator.cdcr.ca.gov/>. Searches conducted based both on Petitioner's name and the  
inmate number that were provided to the Court do not produce any results.

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