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8	UNITED STATES DISTRICT COURT	
9	FOR THE EASTERN DISTRICT OF CALIFORNIA	
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11	MOHAMMAD YIAKUB HOSSAIN,	No. 2:24-cv-01362 DJC AC PS
12	Plaintiff,	
13	V.	FINDINGS AND RECOMMENDATIONS
14	USCIS, et al.,	
15	Defendants.	
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17	Plaintiff is proceeding in this action pro se. The action was accordingly referred to the	
18	undersigned for pretrial matters by E.D. Cal. R. ("Local Rule") 302(c)(21). Plaintiff filed this	
19	mandamus case pursuant to 28 U.S. C. § 1361, asking the court to order defendants to process his	
20	Asylum Application without further delay. ECF No. 1 at 2. The only relief sought by plaintiff	
21	seeks an order compelling defendants to act on his I-589 Asylum Application without further	
22	delay. ECF No. 1 at 12.	
23	On July 22, 2024, defendants moved to dismiss this action pursuant to Fed. R. Civ. P.	
24	12(b)(1) because on July 9, 2024, the agency issued an interview notice and scheduled plaintiff's	
25	asylum interview for August 21, 2024. Declaration of Elliot Wong ("Wong Decl.") \P 2. Defense	
26	counsel emailed plaintiff on July 11, 2024, July 16, 2024, and July 18, 2024 to notify him of the	
27	hearing and provided a courtesy copy of the interview notice and sought plaintiff's position on the	
28	status of this litigation. Id. at \P 3. Defendants moved to dismiss this case on mootness grounds	
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1 pursuant to Fed. R. Civ. P. 12(b)(1). ECF No. 7. Plaintiff did not respond.

2 "In general, when an administrative agency has performed the action sought by a plaintiff 3 in litigation, a federal court 'lacks the ability to grant effective relief,' and the claim is moot." 4 Rosemere Neighborhood Ass'n v. U.S. Environmental Protection Agency, 581 F.3d 1169, 1173 5 (9th Cir. 2009). "Because . . . mootness . . . pertain[s] to a federal court's subject-matter 6 jurisdiction under Article III, [it is] properly raised in a motion to dismiss under Federal Rule of 7 Civil Procedure 12(b)(1)" White v. Lee, 227 F.3d 1214, 1242 (9th Cir. 2000). Here, plaintiff 8 has received what his complaint requested when USCIS issued an interview notice and scheduled 9 his asylum interview for August 21, 2024. Accordingly, there no longer exists a live case or 10 controversy with respect to plaintiff's action to compel USCIS to act on his application, which is 11 the relief sought in his complaint. His claims are therefore moot and subject to dismissal for lack 12 of jurisdiction.

13 Therefore, IT IS HEREBY RECOMMENDED that this action be dismissed for lack of 14 jurisdiction. These findings and recommendations are submitted to the United States District 15 Judge assigned to this case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty-16 one (21) days after being served with these findings and recommendations, plaintiff may file 17 written objections with the court. Such document should be captioned "Objections to Magistrate Judge's Findings and Recommendations." Local Rule 304(d). Plaintiff is advised that failure to 18 19 file objections within the specified time may waive the right to appeal the District Court's order. 20 Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

21 DATED: August 28, 2024

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ALLISON CLAIRE UNITED STATES MAGISTRATE JUDGE