

1 Petitioner’s motion for leave to amend on September 28, 2016 and directed Petitioner to
2 file and serve his amended petition on the proper respondents by October 28, 2016. (Dkt.
3 No. 3.) Petitioner has not filed an amended petition as of the date of entry of this Order.

4 On May 24, 2017, the Court directed Respondent to file and serve a responsive
5 memorandum on or by June 9, 2017. (Dkt. No. 5.) The Court directed Respondent to
6 inform the Court of Petitioner’s detention status in the response and to include any and all
7 documents relevant to the determination of the issues raised by the Petition. (*Id.*) The
8 Court’s May 24, 2017 Order was returned as undeliverable as to Petitioner. (Dkt. No. 6.)

9 Respondent duly complied with the Court’s Order and filed a response on June 9,
10 2017. (Dkt. No. 7.) Respondent urges the Court to deny the petition on the following
11 grounds. First, Petitioner failed to name the appropriate respondent. Second, Petitioner
12 was released on bond on June 9, 2016, and his case has been moved to Los Angeles, at
13 his request. Third, Petitioner fails to state a claim upon which relief can be granted, as no
14 violation of 8 C.F.R. § 208.31(b) occurred. Finally, Petitioner automatically became
15 eligible for a *Rodriguez* bond hearing after six months, regardless of how quickly his
16 removal proceedings were processed.

17 For the following reasons, the Court **DISMISSES** the petition for writ of habeas
18 corpus as moot.

19 **LEGAL STANDARD**

20 Section 2241 confers jurisdiction on federal courts to entertain petitions for habeas
21 corpus from any person claiming to be held “in custody in violation of the Constitution or
22 laws or treaties of the United States.” 28 U.S.C. § 2241(c)(3). However, the Court lacks
23 jurisdiction to decide cases that are moot because the Court’s constitutional authority
24 extends only to actual cases or controversies. *Iron Arrow Honor Society v. Heckler*, 464
25 U.S. 67, 70–71 (1983). A petition for writ of habeas corpus is moot where a petitioner’s
26 claim for relief cannot be redressed by a favorable decision of the court issuing a writ of
27 habeas corpus. *Burnett v. Lampert*, 432 F.3d 996, 1000–01 (9th Cir. 2005) (quoting
28 *Spencer v. Kemna*, 523 U.S. 1, 7 (1998)). Accordingly, when, because of intervening

1 events, a court cannot give any effectual relief in favor of the petitioner, the proceeding
2 shall be dismissed as moot. *Calderon v. Moore*, 518 U.S. 149, 150 (1996); *McCullough v.*
3 *Graber*, 726 F.3d 1057, 1059 (9th Cir. 2013); *Kemna*, 523 U.S. at 18.

4 **DISCUSSION¹**

5 Petitioner’s claim is moot because the relief requested has been effectuated by his
6 release on bond. When a court is unable to provide “effective relief,” it must dismiss the
7 claim as moot because it lacks jurisdiction. *McCullough*, 726 F.3d at 1059; *Pub. Util.*
8 *Comm’n of the State of Cal. v. FERC*, 100 F.3d 1451, 1458 (9th Cir. 1996); *Kemna*, 523
9 U.S. at 18.

10 Petitioner requested the Court to order his release “from detention on conditional
11 parole or reasonable bond pursuant to 8 U.S.C. 1226(a).” (Dkt. No. 1 at 10.) Subsequent
12 to filing this petition, Petitioner was released on bond on June 9, 2016. (Dkt. No. 7 at 75.)
13 Petitioner has already received the relief requested by way of his bond release. Therefore,
14 Petitioner’s claim is moot, and the Court is without jurisdiction to consider the petition.
15 *Cf. Miguel-Miguel v. Kane*, No. 2:07-CV-01815 JWS, 2007 WL 4351403, at *1 (D. Ariz.
16 Dec. 11, 2007) (holding that petitioner’s claim was moot because the requested release
17 from custody had already been granted). Accordingly, the Court **DISMISSES** the
18 petition for writ of habeas corpus as moot.²

19 **IT IS SO ORDERED.**

21 ¹ Petitioner’s claim for habeas relief is also without merit. Petitioner contends that he is due release
22 “from detention on conditional parole or reasonable bond” because his 8 C.F.R § 208.31(b) reasonable
23 fear determination was not concluded within ten days. (Dkt. No. 1.) Respondent argues that there was no
24 violation of 8 C.F.R § 208.31(b), because Petitioner’s claim was referred to the asylum office on January
25 21, 2016, and a final determination was entered on February 2, 2016. (Dkt. No. 7 at 4, 64.) Even if
26 Petitioner’s reasonable fear determination were delayed, the short delay would have no bearing on the
27 requested habeas relief. An immigrant detainee is not entitled to a bond hearing until after a six-month
28 period. *Diouf v. Mukasey*, 542 F.3d 1222, 1233 (9th Cir. 2008). Petitioner was not entitled to his bond
hearing until June 9, 2016. He received his hearing on June 8, 2016. (Dkt. No. 7 at 71.)

² Although release on bond, pending execution of a challenged sentence, satisfies the “in custody”
requirement of § 2241, *Hensley v. Mun. Ct., San Jose Milpitas Jud. Dist., Santa Clara Cty., Cal.*, 411
U.S. 345, 349 (1973), Petitioner’s requested relief was not for unconditional release, but for supervised
release. Thus, Petitioner’s claim is moot, as the relief requested has already been granted.

1 Dated: July 27, 2017

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3 Hon. Gonzalo P. Curiel
4 United States District Judge

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