

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

THOMAS HESTAND, #55105, 060,

Petitioner,

CASE NO. 08-CV-14207

v.

HONORABLE JOHN CORBETT O'MEARA

C. ZYCH,

Respondent.

**OPINION AND ORDER DENYING PETITION
FOR A WRIT OF HABEAS CORPUS**

I. Introduction

This is a habeas case brought pursuant to 28 U.S.C. § 2241. Thomas Hestand (“Petitioner”) is a federal prisoner who was confined at the Federal Correctional Institution in Milan, Michigan at the time he instituted this action. Petitioner is currently housed in a Community Corrections Center (“CCC”) or Residential Reentry Center (“RRC”) in St. Louis, Missouri. *See* Bureau of Prisons Inmate Locator. In his pleadings, Petitioner raises several claims challenging the Federal Bureau of Prisons (“BOP”) determination regarding the time for which he is eligible for CCC placement and the BOP’s rule-making powers. For the reasons, the Court denies the petition for a writ of habeas corpus as moot.

II. Facts and Procedural History

Petitioner was convicted of coercion and enticement of a minor via the internet in violation of 18 U.S.C. § 2422 in the United States District Court for the Northern District of

Ohio and sentenced to five years imprisonment and five years of supervised release on March 15, 2006. His projected release date is August 19, 2010. In his pleadings, Petitioner raises claims concerning the time for which he is eligible for CCC placement and challenging the BOP's rule-making powers. The BOP has determined that Petitioner is eligible for 159 to 180 days of CCC placement. Petitioner seeks placement for 12 months – the maximum allowable under the Second Chance Act of 2007, 42 U.S.C. § 17501 (effective April 9, 2008), which amended 18 U.S.C. § 3624. Respondent has filed an answer to the petition contending that it should be denied because some of Petitioner's specific claims have not been administratively exhausted, a habeas action is not the proper forum his Administrative Procedures Act violation claim, and/or his claims lack merit.

III. Analysis

Article III, § 2 of the United States Constitution requires the existence of a case or controversy through all stages of federal judicial proceedings. This means that, throughout the litigation, the petitioner “must have suffered, or be threatened with, an actual injury traceable to the defendant and likely to be redressed by a favorable judicial decision.” *Lewis v. Continental Bank Corp.*, 494 U.S. 472, 477 (1990); *see also Preiser v. Newkirk*, 422 U.S. 395, 401 (1975). If an event occurs subsequent to the filing of a lawsuit which deprives a court of the ability to provide meaningful relief, the case becomes moot and is subject to dismissal. *See Ailor v. City of Maynardville*, 368 F.3d 587, 596 (6th Cir. 2004). Similarly, a claim for habeas relief becomes moot when the controversy between the parties is no longer alive because the party seeking relief has obtained the relief requested. *See, e.g., Picron-Peron v. Rison*, 930 F.2d 773, 776 (9th Cir.

1991) (a claim is moot when the court no longer has power to grant the requested relief);
Johnson v. Riveland, 855 F.2d 1477, 1479-80 (10th Cir. 1998).

As noted, the BOP Inmate Locator database reveals that Petitioner has been given CCC placement in St. Louis, Missouri. Because Petitioner has been so placed, there is no further relief that the Court may provide him. The present case has thus been rendered moot and must be dismissed for that reason.

IV. Conclusion

For the reasons stated, the Court concludes that there is no longer any case or controversy for the Court to resolve in this matter. Accordingly;

IT IS ORDERED that the petition for a writ of habeas corpus is **DENIED** and **DISMISSED** as moot.

s/John Corbett O'Meara
United States District Judge

Date: May 13, 2010

I hereby certify that a copy of the foregoing document was served upon the parties of record on this date, May 13, 2010, using the ECF system and/or ordinary mail.

s/William Barkholz
Case Manager