

NOT FOR PUBLICATION

CLOSED

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

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ROLAND SHELDON ALLEN, :

 : Civil Action No. 13-5495 (SRC)

 Petitioner, :

 :

 v. :

 :

WARDEN ROY L. HENDRICKS, :

 : **OPINION**

 Respondent. :

_____ :

CHESLER, District Judge:

This matter comes before the Court upon Petitioner’s filing of a § 2241 petition (“Petition”) and submission of the filing fee. See ECF No. 1; ECF dated Oct. 30, 2013. Since, at the time of Petitioner’s commencement of this matter, Petitioner was subject to a final order of removal, the Petition challenged Petitioner’s detention under the removal-period statute, 8 U.S.C. § 1231(a), and Zadvydas v. Davis, 533 U.S. 678 (2001). See ECF No. 1. However, after this matter had been commenced, this Court’s research determined that the Court of Appeals remanded Petitioner’s immigration matter to the Board of Immigration Appeals, and the Government withdrew its opposition to Petitioner’s motion for stay of removal. See Allen v. Att’y Gen. United States, USCA No. 13-1534, ECF dated Oct. 3, 2013 (3d Cir., filed Feb. 27, 2013, term. Oct. 3, 2013). Thus, Petitioner’s order of removal is no longer final. See 8 U.S.C. § 1231(a).

Since the factual predicate supporting Petitioner’s § 1231 and Zadvydas challenges is no longer present, there is no longer a live “case or controversy” regarding the claim he raised here. See U.S. Constitution, Article III. Therefore, that claim should

be dismissed as moot. *See Rodney v. Mukasey*, 340 F. App'x 761 (3d Cir. 2009); *De La Teja v. United States*, 321 F.3d 1357, 1361-63 (11th Cir. 2003); *Reyna v. Hendricks*, Civil No. 12-2665, 2012 U.S. Dist. LEXIS 181461, 2012 WL 6697464 (D.N.J. Dec. 21, 2012).

An appropriate Order follows.

s/Stanley R. Chesler
STANLEY R. CHESLER
United States District Judge

Dated: November 26, 2013