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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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GEORGE ELLIOTT,

07-cv-5068 (ARR) (LB)

Plaintiff,

NOT FOR PRINT  
OR ELECTRONIC  
PUBLICATION

-against-

COMMISSIONER CHRISTINA HERNANDEZ;  
COMMISSIONER JENNIFER ARENA;  
COMMISSIONER SALLY THOMPSON,

OPINION AND ORDER

Defendants.

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ROSS, United States District Judge:

Plaintiff George Elliott, *pro se*, filed this action on November 29, 2007, pursuant to 42 U.S.C. §1983, §1985, and §1986 alleging a violation of his civil rights, arising out of an October 29, 2007 parole interview before defendants. On May 9, 2008, this Court granted in part and denied in part defendants' motion to dismiss the complaint pursuant to FRCP 12(b)(6). The Court dismissed all claims for money damages, all claims against the parole commissioners for acts performed in their quasi-adjudicative capacity, and plaintiff's claims under the equal protection and ex post facto clauses. See Order, May 9, 2008, Dkt. Entry 24. The remaining claims are plaintiff's claims under the due process clause for prospective injunctive relief against the defendant commissioners. Defendants have moved for summary judgment on plaintiff's remaining claims.

On May 28, 2009, plaintiff was released to the custody of Immigration and Customs Enforcement (ICE), and was detained at the Buffalo Federal Immigration Detention Center in Batavia, New York. On July 20, 2009, he was removed from the United States. See Dkt. Entry

50. Accordingly, his request for injunctive relief in the form of a new parole hearing is now moot. Federal courts are not empowered to decide moot questions. See generally Hall v. Beals, 396 U.S. 45 (1969). Courts must divest themselves of jurisdiction if it appears that a case has become moot subsequent to its initiation. North Carolina v. Rice, 404 U.S. 244, 246 (1971).

### **CONCLUSION**

Because plaintiff is no longer in New York State custody, his case seeking injunctive relief is dismissed as moot. The Clerk of Court is directed to enter judgment accordingly.

SO ORDERED.

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Allyne R. Ross  
United States District Judge

Dated: December 28, 2009  
Brooklyn, New York

Service List

**Plaintiff (pro se):**

George Elliott  
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c/o Buffalo Federal Detention Facility  
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Batavia, NY 14020

**Attorney for Defendants**

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cc: Magistrate Judge Bloom