

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

HANI SUBEH (A46090357),

Plaintiff,

DECISION AND ORDER

09-MC-6021L

v.

ERIC HOLDER, Attorney General
of the United States, et al.,

Defendants.

Plaintiff, Hani Subeh (“Subeh”), filed a complaint and seeks a writ of mandamus against an agency of the United States to adjudicate an Alien Relative Petition filed by Subeh on behalf of his wife and children. The Government has moved to dismiss (Dkt. #4) and plaintiff, by counsel, has responded (Dkt. #5).

The Government moves to dismiss on dual grounds. First, because plaintiff has failed to properly serve the summons and complaint as required by FED. R. CIV. P. 4; second, the Government claims that the petition is now moot since the relief requested has been granted. Specifically, by affidavit of Assistant United States Attorney Gail Mitchell, sworn to on October 6, 2009, (Dkt. #4), Subeh’s Alien Relative Petition Form-I-130 has in fact now been acted upon by the United States Department of Homeland Security, Citizenship and Immigration Services (“USCIS”). In fact, it appears that Subeh received a favorable ruling and that such had been passed on to the United States

Department of State. It appears that plaintiff and his counsel have received notification of the above. Although it appears that some final paperwork and transmittals may be necessary, it appears from the papers submitted that Subeh has obtained the adjudication that he requested and, therefore, this complaint seeking that relief is moot and, therefore, should be dismissed.

CONCLUSION

Defendants' motion to dismiss (Dkt. #4) is granted and plaintiff's complaint is dismissed.

IT IS SO ORDERED.

A handwritten signature in black ink, reading "David G. Larimer", written over a horizontal line.

DAVID G. LARIMER

United States District Judge

Dated: Rochester, New York
October 26, 2009.