

IN THE UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF PENNSYLVANIA

|                     |   |                        |
|---------------------|---|------------------------|
| ROBERT DOMINGUEZ,   | : |                        |
|                     | : |                        |
| Petitioner          | : |                        |
|                     | : |                        |
| v.                  | : | CIVIL NO. 4:CV-15-2488 |
|                     | : |                        |
| WARDEN, USP-CANAAN, | : | (Judge Brann)          |
|                     | : |                        |
| Respondent          | : |                        |

**MEMORANDUM**

April 6, 2017

**Background**

Robert Dominguez filed this petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241 while confined at the Canaan United States Penitentiary, Waymart, Pennsylvania (USP-Canaan). The USP-Canaan Warden has been deemed to be the sole proper Respondent in this matter.<sup>1</sup> Service of the Petition was previously ordered.<sup>2</sup>

Petitioner sought habeas corpus relief on the grounds that the BOP allegedly acted improperly because it calculated his sentence under the Prison Litigation

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<sup>1</sup> The Federal Bureau of Prisons (BOP) is listed as the Respondent in the Petition.

<sup>2</sup> Petitioner was transferred to a halfway house in Laredo, Texas shortly after service of the petition was ordered.

Reform Act of 1996 rather than the Sentencing Reform Act of 1984. The Petitioner also raised a claim that his due process rights were violated during an institutional disciplinary hearing which resulted in a loss of good conduct time.

Respondent's initial response (Doc. 12) asserted that calculation of Petitioner's sentence under the PLRA was appropriate because Petitioner's federal sentence was imposed on September 12, 2007 well after the PLRA's effective date of April 25, 1996. The response additionally argued that Dominguez was afforded all due process protections to which he was entitled during his institutional disciplinary hearing.

### **Discussion**

Respondent has filed a "Suggestion of Mootness." Doc. 13, p. 1. The notice provides that Petitioner was released from his federal sentence on July 29, 2016. See id. at p. 2. In light of Dominguez's release from custody, Respondent naturally asserts that this matter is moot.

Habeas corpus review under § 2241 "allows a federal prisoner to challenge the 'execution' of his sentence." Woodall v. Federal Bureau of Prisons, 432 F.3d 235, 241 (3d Cir. 2005). A habeas corpus petition may be brought by a prisoner who seeks to challenge either the fact or duration of his confinement in prison. Preiser v. Rodriguez, 411 U.S. 475 (1973), Telford v. Hepting, 980 F.2d 745, 748

(3d Cir.), cert. denied, 510 U.S. 920 (1993). Federal habeas relief is available only “where the deprivation of rights is such that it necessarily impacts the fact or length of detention.” Leamer v. Fauver, 288 F.3d 532, 540 (3d Cir. 2002).

The case or controversy requirement of Article III, § 2 of the United States Constitution subsists through all stages of federal judicial proceedings. Parties must continue to have a “‘personal stake in the outcome’ of the lawsuit.” Lewis v. Continental Bank Corp., 494 U.S. 472, 477-78 (1990); Preiser v. Newkirk, 422 U.S. 395, 401 (1975). In other words, throughout the course of the action, the aggrieved party must suffer or be threatened with actual injury caused by the defendant. Lewis, 494 U.S. at 477.

The adjudicatory power of a federal court depends upon “the continuing existence of a live and acute controversy.” Steffel v. Thompson, 415 U.S. 452, 459 (1974) (emphasis in original). “The rule in federal cases is that an actual controversy must be extant at all stages of review, not merely at the time the complaint is filed.” Id. at n.10 (citations omitted). “Past exposure to illegal conduct is insufficient to sustain a present case or controversy ... if unaccompanied by continuing, present adverse effects.” Rosenberg v. Meese, 622 F. Supp. 1451, 1462 (S.D.N.Y. 1985) (citing O’Shea v. Littleton, 414 U.S. 488, 495-96 (1974)); see also Gaeta v. Gerlinski, Civil No.3:CV-02-465, slip op. at p. 2 (M.D. Pa. May

17, 2002) (Vanaskie, C.J.).

According to a copy of Petitioner's BOP inmate locator records, which has been submitted by the Respondent, Petitioner was released from federal custody on July 29, 2016. See Doc. 13-1. Since Dominguez has been granted release from federal custody, relief is no longer available with respect to his claims seeking recalculation of the service of his federal sentence and reinstatement of good time credit. As such, under the principles set forth in Steffel, this matter is subject to dismissal as moot since it no longer presents an existing case or controversy. An appropriate Order will enter.

BY THE COURT:

s/ Matthew W. Brann

Matthew W. Brann

United States District Judge