

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

HOWARD PERKINS BURLEIGH §
VS. § CIVIL ACTION NO. 1:09cv376
DIRECTOR, TDCJ-CID §

MEMORANDUM ORDER

Howard Perkins Burleigh, proceeding *pro se*, filed the above-styled petition for writ of habeas corpus. The court referred the matter to the Honorable Earl S. Hines, United States Magistrate Judge, for consideration pursuant to applicable orders of this court. The magistrate judge has submitted a Report and Recommendation of United States Magistrate Judge recommending the petition be denied.

After the Magistrate Judge submitted his Report and Recommendation regarding the merits of the petition, he submitted another Report and Recommendation recommending that motions for default judgment filed by petitioner be denied. The copy of this Report and Recommendation sent to petitioner was returned to the court with a notation indicating petitioner has discharged his sentence and been released from prison.

The current petition does not attack petitioner's criminal conviction. Instead, petitioner asserts prison officials have failed to properly calculate the date on which he should be released from prison. Federal courts are courts of "limited jurisdiction." *See County Court of Ulster County, N.Y. v. Allen*, 442 U.S. 140, 154 (1979). Under Article III, Section 2 of the Constitution, the judicial powers of the United States extend only to "Cases" or "Controversies." The "case or controversy" requirement demands, *inter alia*, that a cause of action before a federal court present a "justiciable" controversy. "[N]o justiciable controversy is presented ... when the question sought to be adjudicated has been mooted by subsequent developments." *Flast v. Cohen*, 392 U.S. 83, 95 (1968).

In his petition, petitioner sought to be released from confinement. As petitioner has been

released from confinement, he has received the relief requested. The petition therefore no longer presents a justiciable controversy and will be dismissed as moot.

ORDER

Accordingly, the current petition is hereby **DISMISSED** without prejudice as moot. A final judgment shall be entered dismissing the petition. All pending motions are **DENIED**.

So **ORDERED** and **SIGNED** this **16** day of **March, 2010**.



Ron Clark, United States District Judge