

CLERK'S OFFICE U.S. DIST. COURT
AT HARRISONBURG, VA
FILED *for Roanoke*

OCT 29 2012

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

JULIA C. DUDLEY, CLERK
BY: *[Signature]*
DEPUTY CLERK

JESSE RAMIREZ,
Petitioner,

v.

WARDEN ZYCH,
Respondent.

Civil Action No. 7:12-cv-00428

MEMORANDUM OPINION

By: Hon. Michael F. Urbanski
United States District Judge

Jesse Ramirez, a federal prisoner proceeding pro se, filed a petition for a writ of mandamus, pursuant to 28 U.S.C. § 1651(a) with jurisdiction vested in 28 U.S.C. § 1361. Petitioner requests a writ of mandamus to compel Warden Zych of the United States Penitentiary in Lee County, Virginia ("USP Lee"), to give plaintiff access to USP Lee's administrative grievance process and to alter the conditions of his confinement at USP Lee.

After filing this mandamus action, plaintiff has been transferred from USP Lee. "[A] federal court has neither the power to render advisory opinions nor 'to decide questions that cannot affect the rights of litigants in the case before them.'" Preiser v. Newkirk, 422 U.S. 395, 401 (1975) (quoting North Carolina v. Rice, 404 U.S. 244, 246 (1971)). Plaintiff is no longer subject to the challenged conditions at USP Lee, and thus, petitioner's transfer or release from USP Lee moots his mandamus action against Warden Zych. See, e.g., Incumaa v. Ozmint, 507 F.3d 281, 286-87 (4th Cir. 2007). Accordingly, the action is dismissed without prejudice as moot.

The Clerk is directed to send copies of this Memorandum Opinion and the accompanying Order to petitioner.

ENTER: This 29th day of October, 2012.

Michael F. Urbanski

United States District Judge