

1 HONORABLE RICHARD A. JONES
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10 UNITED STATES DISTRICT COURT
11 WESTERN DISTRICT OF WASHINGTON
12 AT SEATTLE

13 MANUEL LOZANO RODRIGUEZ,

14 Plaintiffs,

15 v.

16 UR MENDOZA JADDOU, Director, U.S.

17 Defendants.

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20 No. 2:22-cv-01090-RAJ

21 ORDER

I. INTRODUCTION

22 This matter comes before the Court on Defendants' Rule 12(b)(1) motion to
23 dismiss the complaint as moot. Dkt. # 6. Plaintiff did not oppose or respond to the
24 motion. Neither party has requested oral argument and this motion may be decided
25 without it. For the reasons below, the Court **GRANTS** the motion.

II. BACKGROUND

26 Plaintiff Manuel Lozano Rodriguez ("Plaintiff") filed the instant complaint in
27 August 2022. Dkt. # 1. Plaintiff is a citizen of Mexico and has been a permanent resident

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1 of the United States since April 2017. Dkt. # 1, ¶¶ 1, 2. At some point, Plaintiff filed a N-
2 400 naturalization application with the United States Citizenship and Immigration
3 Service (“USCIS”), and USCIS acknowledged receipt of the application on January 14,
4 2021. *Id.* at ¶¶ 4, 5. On May 24, 2022, Plaintiff appeared at the Seattle USCIS field office
5 for an interview concerning his naturalization application. *Id.* at ¶ 6. However, a USCIS
6 representative told Plaintiff that his file had been misplaced and that the agency would
7 contact Plaintiff to reschedule his interview in 3 to 4 weeks. *Id.* at ¶¶ 7, 8. On June 28,
8 2022 Plaintiff communicated to USCIS, via counsel, that he would take legal action if an
9 interview was not scheduled by July 15, 2022. Dkt. # 1-4. At the time of Plaintiff’s filing,
10 in August 2022, over 565 days had elapsed since he filed his naturalization application.
11 Dkt. # 1, ¶ 12.

12 Plaintiff brought suit against USCIS under the Administrative Procedure Act
13 (APA), 5 U.S.C. § 706; the Mandamus Act, 28 U.S.C. § 1361; the Immigration and
14 Naturalization Act (INA), 8 U.S.C. § 1158(b)(3); the Declaratory Judgment Act, 28
15 U.S.C. § 2201; and the Fifth Amendment’s due process and equal protection clauses.
16 Plaintiff sought a declaration that Defendants’ acts and omissions violated the INA, APA,
17 and Fifth Amendment; a writ of mandamus requiring that USCIS adjudicate Plaintiff’s N-
18 400 application within 30 days; and a preliminary and permanent injunction requiring
19 USCIS to adjudicate Plaintiff’s N-400 application within 30 days. Dkt. # 1. On
20 November 10, 2022, USCIS denied Plaintiff’s N-400 application for naturalization in a
21 written decision, and a copy of the decision was e-mailed to Plaintiff’s counsel on that
22 same date. Dkt. # 7, Ex. A (Copy of USCIS Decision). After a meet and confer with
23 Plaintiff’s counsel, Defendants moved to dismiss the pending action as moot. Dkt. ## 6, 7
24 at ¶ 5.

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1 III. DISCUSSION

2 Federal courts are tribunals of limited jurisdiction and may only hear cases
3 authorized by the Constitution or a statutory grant. *Kokkonen v. Guardian Life Ins. Co. of*
4 *Am.*, 511 U.S. 375, 377 (1994). The burden of establishing subject-matter jurisdiction
5 rests upon the party seeking to invoke federal jurisdiction. *Id.* Once it is determined that a
6 federal court lacks subject-matter jurisdiction, the court has no choice but to dismiss the
7 suit. *Arbaugh v. Y & H Corp.*, 546 U.S. 500, 514 (2006); Fed. R. Civ. P. 12(h)(3) (“If the
8 court determines at any time that it lacks subject-matter jurisdiction, the court must
9 dismiss the action.”).

10 A challenge brought under Rule 12(b)(1) may be facial, where the inquiry
11 concerns the allegations made in the complaint; or factual, where the court may look
12 beyond the complaint to extrinsic evidence. *Wolfe v. Strankman*, 392 F.3d 358, 362 (9th
13 Cir. 2004); *see also McCarthy v. U.S.*, 850 F.2d 558, 560 (9th Cir. 1988) (“Moreover,
14 when considering a motion to dismiss pursuant to Rule 12(b)(1) the district court is not
15 restricted to the face of the pleadings, but may review any evidence, such as affidavits
16 and testimony, to resolve factual disputes concerning the existence of jurisdiction.”).
17 Consequently, the Court may consider USCIS’s November 10, 2022 denial of Plaintiff’s
18 naturalization application.

19 To have standing to bring a claim in federal court, Plaintiff must show that he has
20 “suffered an injury in fact, traceable to the challenged action, and likely to be redressed
21 by a favorable decision.” *Nome Eskimo Community v. Babbitt*, 67 F.3d 813, 815 (9th Cir.
22 1995). If a “required prerequisite to the exercise of judicial power disappears while the
23 litigation is pending,” then, in the absence of an exception, “the judicial branch loses its
24 power to render a decision on the merits of the claim.” *Id.* “In general, when an
25 administrative agency has performed the action sought by a plaintiff in litigation, a
26 federal court ‘lacks the ability to grant effective relief,’ and the claim is moot.” *Rosemere*
27 *Neighborhood Ass’n v. U.S. Envtl. Prot. Agency*, 581 F.3d 1169, 1173 (9th Cir. 2009)

1 (quoting *Pub. Util. Comm'n v. FERC*, 100 F.3d 1118, 1123 (9th Cir. 1996)). Such is the
 2 case here.

3 In this case, Plaintiff sought an order to compel USCIS to adjudicate his
 4 naturalization application within 30 days. Dkt. # 1. On November 10, 2022, USCIS
 5 adjudicated Plaintiff's application. "The relief sought in Plaintiff's [complaint], namely
 6 an order to compel USCIS to adjudicate Plaintiff's application[], therefore, can no longer
 7 provide plaintiff with any benefit because the application[] [has] been adjudicated by
 8 USCIS." *Kaddoura v. Gonzales*, Case No. C06-1402RSL, 2007 WL 1521218, at *2
 9 (W.D. Wash. May 21, 2007) (dismissing request for injunction to compel USCIS to
 10 adjudicate applications for adjustment of status and employment authorization because
 11 USCIS already performed the requested actions).

12 Plaintiff's claim that USCIS's "acts and omissions"—misplacing Plaintiff's
 13 application and delaying his interview—violate the INA, APA, and Fifth Amendment
 14 likewise "no longer presents an opportunity for this court to grant meaningful relief."
 15 *Sandhu v. Napolitano*, Case No. C09-07774JLR, 2009 WL 10723368, at *3 (W.D. Wash.
 16 Nov. 27, 2009). Like the plaintiff in *Sandhu*, Plaintiff here "seeks relief only with respect
 17 to ... applications that he has already filed and that have already been adjudicated by
 18 [USCIS]." *Id.* Similarly, Plaintiff's request for mandamus action is subject to mootness.
 19 See *Kaddoura*, 2007 WL 1521218, at *2 ("Here, the notices of decision from USCIS
 20 show that the plaintiff has been granted the relief requested in his petition for writ of
 21 mandamus. Accordingly, the issues presented to this Court are no longer 'live' and the
 22 Court dismisses plaintiff's petition for lack of subject matter jurisdiction.") (internal
 23 citation omitted).

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IV. CONCLUSION

Based on the foregoing reasons, the Court **GRANTS** Defendants' motion to dismiss for lack of subject matter jurisdiction. Dkt. # 6. Plaintiff's complaint is dismissed without prejudice.

DATED this 18th day of January, 2023.

Richard D. Jones

The Honorable Richard A. Jones
United States District Judge