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**UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA**

Yoandy Carrodeguas Castillo,
Plaintiff
-vs-
Unknown Party, et al.,
Defendants.

CV-25-2798-PHX-DGC (JFM)

Report & Recommendation

I. MATTER UNDER CONSIDERATION

Petitioner, incarcerated at the time in the Florence Service Processing Center, Florence, Arizona, filed a *pro se* Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 on August 6, 2025 (Doc. 1) challenging his continued detention pending removal to Cuba. On September 23, 2025, Respondents filed a Response (Doc. 14) to the habeas Petition (Doc. 1) asserting that Petitioner was removed from the United States on September 13, 2025. The Service Order gave Petitioner thirty days from service of the response/answer to Reply. (Order 9/3/25, Doc. 7 at 3.)

In the meantime, the Court issued an Order to Show Cause to Petitioner, observing:

The assertion of removal indicates Petitioner may no longer be found at his address of record. In the Notice of Assignment issued August 5, 2025 (Doc. 2), Petitioner was warned that dismissal could result from failure to file a notice of change of address. Similar warnings were in the service Order filed September 3, 2025 (Doc. 7, at 2). See LRCiv 83.3(d) (mandating notice of change of address). Petitioner has not filed a notice of change of address.

(Order 9/24/25, Doc. 15.) Petitioner was given 14 days to “file either (1) a response to this order showing cause as to why this action should not be dismissed for failure to prosecute; or (2) a notice of change of address with the court, reflecting Petitioner's current address.” (*Id.*) at 2. On September 29, 2025, a copy of that Order was sent to Petitioner at an alternative address provided by Petitioner to immigration personnel. (*See* Order

1 9/24/25, Doc. 15; and Order 9/29/25, Doc. 19.)

2 Petitioner has filed neither a notice of change of address nor a response to the Order
3 to Show cause, and the time to do so expired on Wednesday, October 8, 2025.

4 Accordingly, the undersigned makes the following proposed findings of fact,
5 report, and recommendation pursuant to Rule 8(b), Rules Governing Section 2254 Cases,
6 Rule 72(b), Federal Rules of Civil Procedure, 28 U.S.C. § 636(b) and Rule 72.2(a)(2),
7 Local Rules of Civil Procedure.

8
9 **II. APPLICATION OF LAW TO FACTS**

10 **A. MOOTNESS OF HABEAS PETITION**

11 Respondents have argued the Petition is moot. “Article III of the Constitution limits
12 federal ‘Judicial Power,’ that is, federal-court jurisdiction, to ‘Cases’ and ‘Controversies.’”
13 *U.S. Parole Commission v. Geraghty*, 445 U.S. 388, 395, 100 S.Ct. 1202, 1208 (1980).
14 This limitation restricts the jurisdiction of the federal courts to cases where there is a
15 possible judicial resolution. *Id.* A moot action is not subject to a judicial resolution.

16 A moot action is one in which the parties lack a legally cognizable interest in the
17 outcome. The test for mootness is whether the court can give a party any effective relief
18 in the event that it decides the matter on the merits in their favor. “That is, whether the
19 court can ‘undo’ the effects of the alleged wrongdoing.” *Reimers v. Oregon*, 863 F.2d
20 630, 632 (9th Cir. 1989).

21 A habeas petition may be rendered moot following a subsequent release from
22 custody, absent other, collateral consequences that flow from the complained of
23 imprisonment. *Lane v. Williams*, 455 U.S. 624 (1982). While the existence of such
24 collateral consequences is irrebuttably presumed in some habeas challenges to criminal
25 convictions, *see e.g., Sibron v. New York*, 392 U.S. 40 (1968); *Chacon v. Wood*, 36 F.3d
26 1459 (9th Cir. 1994), no such presumption applies to habeas petitions challenging
27 deportation orders.

1 Here, Petitioner arguably does not challenge his underlying removal order,¹ but
2 merely his continued detention pending the execution of that order. However, although
3 that detention has terminated, Petitioner has been deported and is precluded from re-entry
4 into the country. Under those circumstances, there may yet remain relief which may be
5 granted. *Reimers, supra*. Moreover, Petitioner has not yet been heard from on whether
6 the matter is moot.

7 However, in light of Petitioner's failure to prosecute, the Court need not resolve
8 that issue to dispose of this matter.

9 **B. FAILURE TO PROSECUTE**

10 "The authority of a court to dismiss *sua sponte* for lack of prosecution has generally
11 been considered an 'inherent power,' governed not by rule or statute but by the control
12 necessarily vested in courts to manage their own affairs so as to achieve the orderly and
13 expeditious disposition of cases." *Link v. Wabash R. Co.*, 370 U.S. 626, 630-631 (1962).
14 "Accordingly, when circumstances make such action appropriate, a District Court may
15 dismiss a complaint for failure to prosecute even without affording notice of its intention
16 to do so or providing an adversary hearing before acting. Whether such an order can stand
17 on appeal depends not on power but on whether it was within the permissible range of the
18 court's discretion." *Id.* at 633.

19 In determining whether an abuse of discretion has occurred, a number of factors are
20 relevant, including the plaintiff's diligence, the trial court's need to manage its docket, the
21 danger of prejudice to the party suffering the delay, the availability of alternate sanctions,
22 and the existence of warning to the party occasioning the delay. *See, e.g., Hamilton v.*
23 *Neptune Orient Lines, Ltd.*, 811 F.2d 498, 499 (9th Cir.1987).

24 Despite having been given specific notice of his obligation to file a notice of change
25

26 _____
27 ¹ Petitioner's *pro se* Petition does allege facts that could be read as a challenge to not only
28 his prolonged detention pending removal, but to his rearrest after being placed on
supervision and furling complying with the terms of supervision. In light of the disposition
recommended herein, the Court need not resolve those issues. (*See* Service Order 9/3/25,
Doc. 7 (summarizing Petition).)

1 of address, and an order specifically directing him to do so, Petitioner has failed to keep
2 his current address on file with the Court.

3 It is the duty of a party who has filed a *pro se* action to keep the Court apprised of
4 his or her current address and to comply with the Court's orders in a timely fashion. This
5 Court does not have an affirmative obligation to locate Petitioner. "A party, not the district
6 court, bears the burden of keeping the court apprised of any changes in his mailing
7 address." *Carey v. King*, 856 F.2d 1439, 1441 (9th Cir. 1988). Petitioner's failure to keep
8 the Court informed of his new address constitutes failure to prosecute.

9 Petitioner has failed to prosecute this action, and dismissal is therefore within the
10 discretion of the Court. *Link v. Wabash R. Co.*, *supra*. In the instant case, Petitioner
11 appears to have abandoned this action upon his release from custody. Petitioner has had
12 over four months since his release to file a notice of change of address. Further delay to
13 the Court and to Respondent is not warranted. Also, Petitioner has received adequate
14 warning of the potential of such action, and in light of Petitioner's refusal to respond to
15 the Court, less onerous sanctions will be ineffective.

16 17 **III. CERTIFICATE OF APPEALABILITY**

18 Rule 11(a), Rules Governing Section 2254 Cases, requires that in habeas cases the
19 "district court must issue or deny a certificate of appealability when it enters a final order
20 adverse to the applicant." Such certificates are required in cases concerning detention
21 arising "out of process issued by a State court", or in a proceeding under 28 U.S.C. § 2255
22 attacking a federal criminal judgment or sentence. 28 U.S.C. § 2253(c)(1). This case arises
23 under 28 U.S.C. § 2241, and does not attack a State court detention. Accordingly, no
24 ruling on a certificate of appealability is required, and no recommendation thereon will be
25 offered.

26 27 **IV. RECOMMENDATION**

28 **IT IS THEREFORE RECOMMENDED** that the Petitioner's Petition for Writ of

1 Habeas Corpus, filed August 6, 2025 (Doc. 1) be **DISMISSED WITHOUT**
2 **PREJUDICE** for failure to prosecute.

3
4 **V. EFFECT OF RECOMMENDATION**


5 This recommendation is not an order that is immediately appealable to the Ninth
6 Circuit Court of Appeals. Any notice of appeal pursuant to Rule 4(a)(1), Federal Rules of
7 Appellate Procedure, should not be filed until entry of the district court's judgment.

8 However, pursuant to Rule 72(b), Federal Rules of Civil Procedure, the parties shall
9 have fourteen (14) days from the date of service of a copy of this recommendation within
10 which to file specific written objections with the Court. *See also* Rule 8(b), Rules
11 Governing Section 2254 Proceedings. Thereafter, the parties have fourteen (14) days
12 within which to file a response to the objections. Failure to timely file objections to any
13 findings or recommendations of the Magistrate Judge will be considered a waiver of a
14 party's right to *de novo* consideration of the issues, *see United States v. Reyna-Tapia*, 328
15 F.3d 1114, 1121 (9th Cir. 2003)(*en banc*), and will constitute a waiver of a party's right to
16 appellate review of the findings of fact in an order or judgment entered pursuant to the
17 recommendation of the Magistrate Judge, *Robbins v. Carey*, 481 F.3d 1143, 1146-47 (9th
18 Cir. 2007).

19 In addition, the parties are cautioned Local Civil Rule 7.2(e)(3) provides that
20 “[u]nless otherwise permitted by the Court, an objection to a Report and Recommendation
21 issued by a Magistrate Judge shall not exceed ten (10) pages.”

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23 Dated: October 16, 2025

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James F. Metcalf
United States Magistrate Judge