

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

NOV 18 2020

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

HAMIDULLAH HABIBI,

Petitioner-Appellant,

v.

WILLIAM P. BARR, Attorney General; et
al.,

Respondents-Appellees.

No. 20-55506

D.C. No.

3:20-cv-00618-BAS-RBB

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Cynthia A. Bashant, District Judge, Presiding

Submitted November 12, 2020**
Pasadena, California

Before: CHRISTEN and WATFORD, Circuit Judges, and ROSENTHAL,**
District Judge.

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

*** The Honorable Lee H. Rosenthal, Chief United States District Judge for the Southern District of Texas, sitting by designation.

Hamidullah Habibi timely appeals from the district court’s dismissal of his amended petition for habeas corpus. Because the appeal has become moot, we dismiss it for lack of jurisdiction. *Gator.com Corp. v. L.L. Bean, Inc.*, 398 F.3d 1125, 1128–29 (9th Cir. 2005) (en banc).

Habibi was released from immigration detention while this appeal was pending. Habibi’s amended petition sought his release from detention or a new bond hearing. The petition “raised claims that were fully resolved by [his] release from custody,” and the “successful resolution of [his] pending claims could no longer provide [his] requested relief.” *Abdala v. I.N.S.*, 488 F.3d 1061, 1065 (9th Cir. 2007).

Habibi asserts no “collateral consequences” that keeps his case alive, *id.* at 1064, and the “capable of repetition, yet evading review” exception does not apply, *Protectmarriage.com-Yes on 8 v. Bowen*, 752 F.3d 827, 836 (9th Cir. 2014). Habibi’s appeal does not present an “exceptional situation,” and it is not part of a “class[] of cases that, absent an exception, would *always* evade judicial review.” *Id.* at 836–37 (emphasis in original). Habibi’s appeal presents no “live controversy,” and further action on it would be outside this court’s “constitutional purview.” *Gator.com Corp.*, 398 F.3d at 1128–29.

PETITION DISMISSED.