

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

NO. 03-1834

M. ASH-SHARIEF AL'ASKARI,
Appellant

v.

FEDERAL BUREAU OF PRISONS

On Appeal From the United States District Court
For the Middle District of Pennsylvania
(D.C. Civ. No. 02-cv-01475)
District Judge: Honorable William W. Caldwell

Summary Action Under Third Circuit LAR 27.4 and I.O.P. 10.6
August 28, 2003
Before: Scirica, Chief Judge, Weis and Garth, Circuit Judges.

(Filed: September 17, 2003)

OPINION

PER CURIAM.

In August 2002 Al'Askari filed a habeas corpus petition pursuant to 28 U.S.C. § 2241 in which he contends that he should have been placed in pre-release custody pursuant to 18 U.S.C. § 3624(c). In a Report and Recommendation, the Magistrate Judge disagreed and recommended denying the petition. However, the District Court

subsequently received notice that Al'Askari had been released from custody on January 21, 2003. For that reason, and because Al'Askari does not challenge the legality of his conviction or sentence and has not demonstrated continuing collateral consequences, the District Court dismissed the petition as moot, citing Spencer v. Kemna, 523 U.S. 1 (1998). This appeal followed.

We agree with the District Court. In his petition Al'Askari challenged only the failure of the BOP to release him to pre-release custody. Once he was released from prison, his petition no longer presented a case or controversy under Article III, § 2, of the Constitution and the issue became moot. Accordingly, we shall affirm the judgment of the District Court.

HPS-153

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JUDGMENT

This cause came on to be heard on the record from the United States District Court for the Middle District of Pennsylvania and was submitted for summary action under Third Circuit LAR 27.4 and I.O.P. 10.6. On consideration whereof, it is now here

ORDERED AND ADJUDGED by this Court that the judgment of the District Court entered March 4, 2003 be and the same is hereby affirmed. All of the above in accordance with the opinion of this Court.

ATTEST:

Chief Deputy Clerk

DATED: September 17, 2003