

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA  
COLUMBUS DIVISION**

<b>ELVIS RAFAEL REQUENA,</b>	:	
	:	
<b>Petitioner,</b>	:	
	:	<b>Case No. 4:25-CV-33-CDL-AGH</b>
<b>v.</b>	:	<b>28 U.S.C. § 2241</b>
	:	
<b>WARDEN, STEWART DETENTION CENTER,</b>	:	
	:	
	:	
<b>Respondent.</b>	:	

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**SECOND MOTION TO DISMISS**

On January 24, 2025, Petitioner filed a petition for a writ of habeas corpus (“Petition”). ECF No. 1. On February 20, 2025, Respondent filed a Motion to Dismiss arguing, *inter alia*, that Petitioner cannot state a claim for relief because the Petition is premature. ECF No. 4. On April 8, 2025, the Court ordered Respondent to submit a status report regarding Petitioner’s location within seven (7) days. ECF No. 10. In lieu of a status report, Respondent now files this Second Motion to Dismiss the Petition. Petitioner was removed from the United States to Venezuela on April 3, 2025 and is no longer in the custody of Respondent or Immigration and Customs Enforcement (“ICE”), Enforcement and Removal Operations (“ERO”). The Petition should consequently be dismissed as moot.

**ARGUMENT**

Petitioner is a native and citizen of Venezuela. Gloster Decl. ¶ 3, ECF No. 4-1. On December 13, 2024, Petitioner was ordered removed to Venezuela and waived appeal. Gloster Decl. ¶ 11; Gloster Decl. Ex. I, ECF No. 4-10. Because he waived appeal, his removal order became final the same day. 8 C.F.R. § 1241.1(b). On April 3, 2025, ICE/ERO removed Petitioner

from the United States to Venezuela. 2d Gloster Decl. ¶ 3. Specifically, on that date, ICE/ERO first transported Petitioner to Honduras via charter flight. *Id.* From Honduras, ICE Air Operations then removed Petitioner on another flight directly to Venezuela.<sup>1</sup> *Id.* Petitioner is no longer in Respondent or ICE/ERO's custody. *Id.* Because Petitioner is no longer in Respondent's custody, the Court lacks subject-matter jurisdiction over his claims. Accordingly, the Court should dismiss the Petition as moot.

The case-or-controversy requirement of Article III, section 2 of the United States Constitution subsists through all stages of federal judicial proceedings. *See Spencer v. Kemna*, 523 U.S. 1, 7 (1998). A petitioner "must have suffered, or be threatened with, an actual injury traceable to the defendant and likely to be redressed by a favorable judicial decision." *Lewis v. Cont'l Bank Corp.*, 494 U.S. 472, 477 (1990). "The doctrine of mootness derives directly from the case or controversy limitation because an action that is moot cannot be characterized as an active case or controversy." *Soliman v. United States*, 296 F.3d 1237, 1242 (11th Cir. 2002) (internal quotation marks and citation omitted). "Put another way, a case is moot when it no longer presents a live controversy with respect to which the court can grant meaningful relief." *Fla. Ass'n of Rehab. Facilities, Inc. v. Fla. Dep't of Health & Rehab. Servs.*, 225 F.3d 1208, 1217 (11th Cir. 2000) (internal quotation mark and citation omitted). Thus, "[i]f events that occur subsequent to the filing of a lawsuit or an appeal deprive the court of the ability to give the plaintiff or appellant meaningful relief, then the case is moot and must be dismissed." *Al Najjar v. Ashcroft*, 273 F.3d 1330, 1336 (11th Cir. 2001). "Indeed, dismissal is required because mootness is jurisdictional." *Id.*; *see also De La Teja v. United States*, 321 F.3d 1357, 1362 (11th Cir. 2003). Once a petitioner

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<sup>1</sup> ICE/ERO is attempting to secure a copy of Petitioner's executed I-205 Warrant of Removal/Deportation. To the extent necessary for the Court's review of this Second Motion to Dismiss, Respondent will attempt to provide a copy of Petitioner's executed I-205 and respectfully requests additional time to do so.

has been removed from the United States, the dispute regarding his detention is rendered moot and must be dismissed. *See Soliman*, 296 F.3d at 1243.

Here, Petitioner requested release from ICE/ERO custody. Pet. 7, ECF No. 1. He was removed from the United States to Venezuela on April 3, 2025 and is no longer in Respondent or ICE/ERO's custody. 2d Gloster Decl. ¶ 3. Because Petitioner is not in Respondent's custody, the Court can no longer give Petitioner any meaningful relief regarding his detention. Accordingly, the Petition is moot and should be dismissed.

### **CONCLUSION**

For the foregoing reasons, Respondent respectfully requests that the Petition be dismissed.

Respectfully submitted this 15th day of April, 2025.

C. SHANELLE BOOKER  
ACTING UNITED STATES ATTORNEY


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**CERTIFICATE OF SERVICE**

This is to certify that I have this date filed the Second Motion to Dismiss with the Clerk of the United States District Court using the CM/ECF system, which will send notification of such filing to the following:

N/A

I further certify that I have this date mailed by United States Postal Service the document and a copy of the Notice of Electronic Filing to the following non-CM/ECF participants:

Elvis Rafael Requena  
A#   
South Texas ICE Processing Center  
566 Veterans Drive  
Pearsall, TX 78061

This 15th day of April, 2025.

BY: s/ Roger C. Grantham, Jr.  
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Assistant United States Attorney