

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

KENDINZON RIVERO LOPEZ,	:	
	:	
Petitioner,	:	
	:	
v.	:	Case No. 4:25-CV-56-CDL-AGH
	:	28 U.S.C. § 2241
	:	
WARDEN, STEWART DETENTION CENTER,	:	
	:	
	:	
Respondent.	:	

MOTION TO DISMISS

On February 12, 2025, Petitioner filed a petition for a writ of habeas corpus (“Petition”), asserting that his continued detention is unconstitutional and seeking release from custody as a remedy. ECF No. 1. On the same day, the Court ordered Respondent to file a response within twenty-one (21) days. ECF No. 3. In lieu of a response, Respondent now files this Supplemental Motion to Dismiss the Petition. Petitioner was removed from the United States on February 19, 2025, and the Petition should consequently be dismissed as moot.

BACKGROUND

Petitioner was detained by Immigration and Customs Enforcement (“ICE”), Enforcement and Removal Operations (“ERO”) under 8 U.S.C. § 1231 pursuant to a final order of removal. *See* Pet. 2, 4. On February 17, 2024, ICE/ERO transferred Petitioner to Adams County Correctional Center in Natchez, Mississippi for removal to Venezuela. Wamsley Decl. ¶ 7. On February 19, 2025, Petitioner was inadvertently removed to Mexico from the Rio Grande Detention Center. *Id.*; *See* Ex. A, Form I-205 Warrant of Removal/Deportation. ICE/ERO attempted to locate Petitioner in Mexico without success. Wamsley Decl. ¶ 8. Petitioner is no longer in ICE/ERO custody. *Id.*

ARGUMENT

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 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 custody. Pet. 6-7, ECF No. 1. He was removed from the United States on February 19, 2025, and is no longer in Respondent's custody. Wamsley

Decl. ¶ 7; Ex. A. Because Petitioner is not in Respondent or ICE/ERO custody, the Court can no longer give Petitioner any meaningful relief regarding his detention.¹ *See H.T. v. Warden, Stewart Det. Ctr.*, No. 4:20-cv-146-CDL-MSH, 2020 WL 12656230, at *2-6 (M.D. Ga. Dec. 29, 2020), *recommendation adopted*, 2021 WL 5444776 (M.D. Ga. Feb. 23, 2021) (dismissing habeas petition raising claims arising from non-citizen's detention as moot based on non-citizen's removal and holding that the Court lacked jurisdiction over proposed claims arising from execution of non-citizen's removal order). Accordingly, the Petition is moot and should be dismissed.

CONCLUSION

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

Respectfully submitted, this 5th day of March, 2025.

C. SHANELLE BOOKER
ACTING UNITED STATES ATTORNEY

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¹ The Court lacks subject matter jurisdiction to review any "questions of law and fact, including interpretation and application of constitutional and statutory provisions, arising from any action taken . . . to remove an alien from the United States[.]" 8 U.S.C. § 1252(b)(9). The Court also lacks subject matter jurisdiction over "any cause or claim by or on behalf of any alien arising from the decision or action . . . to . . . execute removal orders." 8 U.S.C. § 1252(g).

CERTIFICATE OF SERVICE

This is to certify that I have this date filed the Respondent's 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:

Kendinzon Rivero Lopez
A# 249 208 349
Adams County Correctional Center
20 Hobo Fork Rd
Natchez, MS 39120

This 5th day of March, 2025.

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