

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

GERALD SALGADO-ALANIZ,	:	
	:	
Petitioner,	:	
	:	
v.	:	Case No. 4:25-CV-86-CDL-AGH
	:	28 U.S.C. § 2241
	:	
WARDEN, STEWART DETENTION CENTER,¹	:	
	:	
Respondent.	:	

MOTION TO DISMISS

On March 11, 2025, Petitioner filed a petition for a writ of habeas corpus (the “Petition”). ECF No. 1. On April 7, 2025, the Court ordered Respondent to file a comprehensive response within twenty-one days. ECF No. 3. In lieu of a response, Respondent files this Motion to Dismiss the Petition. Petitioner was removed from the United States on April 16, 2025, and the Petition should consequently be dismissed as moot.

BACKGROUND

Petitioner is a native and citizen of Nicaragua who unlawfully entered the United States at or near Roma, Texas on June 29, 2021, and was encountered by Customs and Border Protection (“CBP”). Graumenz Decl. ¶ 3 & Ex. A. On August 6, 2021, Petitioner was released from CBP custody on parole. *Id.* ¶ 3 & Ex. A.

¹ Petitioner names the Attorney General along with the United States Department of Homeland Security, United States Immigration and Customs Enforcement, and officials with both agencies as Respondents in the Petition. “[T]he default rule [for claims under 28 U.S.C. § 2241] is that the proper respondent is the warden of the facility where the prisoner is being held, not the Attorney General or some other remote supervisory official.” *Rumsfeld v. Padilla*, 542 U.S. 426, 434-35 (2004) (citations omitted). Thus, Respondent has substituted the Warden of Stewart Detention Center as the sole appropriately named respondent in this action.

On October 3, 2022, Immigration and Customs Enforcement (“ICE”)/Enforcement and Removal Operations (“ERO”) lodged a Notice to Appear with the Atlanta Immigration Court, charging Petitioner as removable pursuant to Immigration and Nationality Act (“INA”) § 212(a)(6)(A)(i), 8 U.S.C. § 1182(a)(6)(A)(i), based on his presence in the United States without admission or parole. *Id.* ¶ 4 & Ex. B. During his removal proceedings, Petitioner filed applications for relief from removal with the immigration judge (“IJ”). *Id.* ¶ 5. On March 21, 2024, the IJ denied Petitioner’s applications and ordered him removed to Nicaragua. *Id.* ¶ 6 & Ex. C.

On November 10, 2024, Petitioner entered ICE/ERO custody for the first time after he was arrested for a controlled substance offense in Lilburn, Georgia. *Id.* ¶ 7 & Ex. A. Petitioner appealed the IJ’s removal order to the Board of Immigration Appeals (“BIA”). Graumenz Decl. ¶ 8. On March 19, 2025, the BIA dismissed his appeal. *Id.* ¶ 8 & Ex. D. On April 16, 2025, ICE/ERO removed Petitioner to Nicaragua via ICE Charter mission #25-001348.² *Id.* ¶ 9. Petitioner is no longer in ICE/ERO custody. *Id.*

ARGUMENT

As explained above, ICE/ERO has removed Petitioner from the United States. Because Petitioner is no longer in Respondent or ICE/ERO’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

² Due to the high volume of removals and because Petitioner was recently removed, ICE/ERO is attempting to procure a copy of Petitioner’s executed I-205 Warrant of Removal/Deportation.

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. 1, 5-6, ECF No. 1. He was removed from the United States on April 16, 2025, and is no longer in Respondent or ICE/ERO’s custody. 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 requests that Petitioner’s application for habeas relief be dismissed.

Respectfully submitted this 28th day of April, 2025.

C. SHANELLE BOOKER
ACTING UNITED STATES ATTORNEY


BY: s/ Roger C. Grantham, Jr.
ROGER C. GRANTHAM, JR.
Assistant United States Attorney
Georgia Bar No. 860338
United States Attorney's Office
Middle District of Georgia
P. O. Box 2568
Columbus, Georgia 31902
Phone: (706) 649-7728
roger.grantham@usdoj.gov

CERTIFICATE OF SERVICE

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

Gerald Salgado-Alaniz
A# 
Stewart Detention Center
P.O. Box 248
Lumpkin, GA 31815

This 28th day of April, 2025.

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