

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 25-CV-22624-JEM

EURIALO LOSADA DIAZ,

Petitioner

v.

CHARLES PARRA, Field Office Director,
et al.,

Respondents.

**RESPONDENTS' RESPONSE TO
COURT ORDER (ECF NO. 13)**

Respondents, Charles Parra, in his official capacity as Assistant Field Office Director; Garrett Ripa, in his official capacity as Field Office Director, Miami Field Office; Todd Lyons, in his official capacity as Acting Director, Immigration and Customs Enforcement; and Kristi Noem, in her official capacity as U.S. Secretary of Homeland Security; respectfully submit this Response to this Court's Order permitting the parties to file supplemental briefing addressing "the current posture of this case and whether those developments are relevant to the Court's disposition of the Petition" (ECF No. 13).

A THIRD COUNTRY'S AGREEMENT TO RECEIVE PETITIONER SIGNIFICANTLY INCREASES THE CHANCES THAT PETITIONER'S CLAIMS WILL BECOME MOOT AFTER HIS REMOVAL.

I. The Complaint and Post-Complaint Developments

Eurialo Losada Diaz is a Cuban national who cannot be removed to Cuba (ECF No. 1 at 3-4). On June 10, 2025, Petitioner alleged that his continued detention pending removal violates his Fifth Amendment rights to Due Process (*id.* at 5-7 (citing *Zadvydas v. Davis*, 533

U.S. 678 (2001)) and his Sixth Amendment Right to Counsel (*id.* at 7). Petitioner specifically alleged that his “removal” from the United States “is not imminent” (*id.* at 6), and he asked this Court to order that he (1) “shall not be transferred outside the Southern District of Florida until further notice” and (2) shall be released (*id.* at 7-8).

Three days later, on June 13, 2025, this Court ordered that “Petitioner shall not be transferred to any other facilities outside the Southern District of Florida pending resolution of this matter” (ECF No. 6 at 2). Respondents complied with that Order. On October 17, 2025, Respondents served upon Petitioner a “Notice of Removal” indicating a notice of intent to remove Petitioner to a third country, in this case Mexico. (Attachment A).

II. Relevance to this Court’s Disposition of the Petition

A modification of the Court’s Order (ECF No. 6) lifting the prohibition on transfer will permit Respondents to pursue removal of the Petitioner to a third country, thus rendering the claims in the Complaint moot. Indeed, Petitioner’s Due Process claim – which hinges on Petitioner’s removal not being “imminent” (ECF No. 1 at 6) – will become moot because removal will be accomplished (*see, generally*, Attachment A; Attachment B (Declaration of Deportation Officer (describing how “Government of Mexico has agreed to accept the repatriation of Cuban citizens with final orders of removal from the United States”). Moreover, there are no allegations that Counsel will not be able to communicate with Petitioner overseas, thereby undermining Petitioner’s Sixth Amendment claim (*id.* at 7).

Although this Court’s jurisdiction is usually determined at filing, after-arising events can affect jurisdiction because the case-or-controversy requirement of Article III, Section 2 of the United States Constitution subsists through all stages of federal judicial proceedings. *Spencer v. Kemna*, 523 U.S. 1, 7 (1998). Further, a plaintiff “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. Continental Bank Corp.*, 494 U.S. 472, 477 (1990). When there is nothing for the Court to redress (as in this case, where the Plaintiffs seek to have this Court compel Defendants to do something that they have already done), a case is moot. *See Spencer*, 523 U.S. at 17. Mootness deprives a court of the power to act when there is nothing to remedy. *Id.* at 18. A district court must dismiss an action if the court lacks jurisdiction over the subject matter of the suit. See FED. R. CIV. P. 12(b)(1), 12(h)(3).¹

Respectfully submitted,

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¹ In his Motion for Status Conference, Petitioner alluded to “significant developments in related pleadings within this District and elsewhere” (ECF No. 12 at 1). The undersigned Assistant United States Attorney requested Counsel for Petitioner to provide more specific information regarding those “developments” and specific citations.