

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Civil No. 25-cv-02530 (JWB/LIB)

Kalalizi Madogo,

Petitioner,

v.

Merrick B. Garland, Alejandro
Mayorkas, and Kevin Raycraft,

Respondents.

**RESPONSE TO HABEAS
PETITION**

INTRODUCTION

Petitioner Kalalizi Madogo (“Madogo”) filed this action pro se under 28 U.S.C. § 2241 seeking his release from immigration detention pending his removal. In his petition, Madogo claimed that Respondent immigration officials had not been able to remove him to the Congo, his home country, within the presumptive constitutional timeline of six months under *Zadvydas v. Davis*, 533 U.S. 678 (2001). He sought his release from detention pending his removal. Madogo filed his petition on June 18, 2025. *See* ECF No. 1. But on June 19, 2025, Madogo was in fact removed from the United States. *See* Declaration of Gregory G. Brooker, Declaration Exhibit A (a true and correct copy of ICE Form I-205 for Madogo), p. 2. Because Madogo has now been removed, his habeas petition is moot. Respondents, therefore, respectfully request that the Court recommend that this case be dismissed.

ANALYSIS

At the time he filed this pro se habeas petition, Madogo was in post-final-order-of-removal detention. *See* Petition, ECF No. 1. Madogo argued he should be released because immigration officials could not effectuate his final order of removal and remove him to the

Congo. *Id.* Specifically, Madogo contended that his removal was not significantly likely in the reasonably foreseeable future under *Zadvydas v. Davis*, 533 U.S. 678 (2001). Madogo has now been removed. *See* Exh. A to Brooker Declaration. His removal was not only likely, it has now occurred, mooted his request for release.

The “case or controversy” requirement set forth in Article III, section 2 of the Constitution applies *throughout* a case. *See Spencer v. Kemna*, 523 U.S. 1, 7 (1998). Throughout the litigation, 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.” *Id.* (citing *Lewis v. Cont’l. Bank Corp.*, 494 U.S. 472, 477 (1990)); *see also McMillan v. Chief Judge, Circuit Court of Greene County*, 711 F.2d 108, 109 (8th Cir. 1983). For a court to retain jurisdiction, a real controversy must exist, not only when suit is filed, but throughout all stages of the case. *Potter v. Norwest Mortg., Inc.*, 329 F.3d 608, 611 (8th Cir. 2003). A federal court may not render advisory opinions and may not “decide questions that cannot affect the rights of litigants in the case before them.” *Preiser v. Newkirk*, 422 U.S. 395, 401 (1975).

Petitioner’s “removal from the United States leaves nothing for the Court to grant by way of habeas relief. He is no longer in the custody of ... U.S. Immigration and Customs Enforcement (ICE), and as a result, the Court cannot order his release.” *Sirleaf v. Secretary, Dep’t of Homeland Security*, No. 17-cv-4126 (DSD/HB), 2018 WL 3407697, at *1 (D. Minn. June 19, 2018), Report and Recommendation adopted, 2018 WL 3404154 (D. Minn. July 12, 2018); *Ahmed v. Sessions*, No. 16-cv-2124 (DSD/HB), 2017 WL 3267738, at *2 (D. Minn. July 11, 2017), Report and Recommendation adopted, 2017 WL

3268176 (D. Minn. July 31, 2017) (citing *Mhanna v. U.S. Dep't of Homeland Sec. Citizenship & Immig. Servs.*, No. 10-cv-292 (JRT/LIB), 2010 WL 5141803, at *12 (D. Minn. Dec. 13, 2010)). See also e.g., *Yadin v. Sessions*, No. 16-cv-3466 (SRN/SER), 2017 WL 3267709, at *2 (D. Minn. July 31, 2017) (same); *Gbadyu v. U.S. Dept. of Homeland Security*, 18-cv-986 (DSD/TNL), ECF. No. 11 (D. Minn. Dec. 3, 2018); *Iman v. Frank*, 18-cv-1608 (JRT/TNL), Report and Recommendation, ECF. No. 7 (D. Minn. Nov. 19, 2018).

No exceptions to mootness apply here. See, e.g., *Sirleaf*, 2018 WL 3407697 at *2. No collateral injuries exist. The capable-of-repetition exception also does not apply, because Petitioner has left the country. *Ahmed*, 2017 WL 3267738 at *3. The voluntary cessation exception does not apply either. Respondents diligently pursued removal, and it was recently effectuated. Finally, this is an individual, not a class, action.

In sum, this case has become moot in light of Madogo's removal from the country. The habeas petition should, therefore, be dismissed.

CONCLUSION

For the reasons set forth above, the Respondents respectfully request that the Petition be dismissed as moot.

Dated: July 14, 2025

JOSEPH H. THOMPSON
Acting United States Attorney

s/ Gregory G. Brooker

BY: GREGORY G. BROOKER
Assistant U.S. Attorney
Attorney ID Number 166066
300 S. 4th St., #600
Minneapolis, MN 55415
Phone: 612-664-5600
Email: greg.brooker@usdoj.gov

Attorneys for Respondents