

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 25-23845-CIV-MARTINEZ

CHRISTIAN AGUILAR MERINO,

Petitioner,

v.

GARRETT RIPA, KRISTI NOEM, and
PAM BONDI, in their official capacities,

Respondents.

**RESPONDENTS' MOTION TO DISMISS
FOR LACK OF SUBJECT MATTER JURISDICTION: CASE IS MOOT**

Respondents move, pursuant to Federal Rule of Civil Procedure 12(b)(1), to dismiss this case for lack of subject matter jurisdiction. On Friday, September 12, 2025, the immigration judge in Petitioner's underlying immigration case issued a new bond memorandum finding that the judge lacked jurisdiction to grant the alien's release on bond. *See Exhibit 1, Immigration Judge's September 12 decision.* This September 12 decision is the operative bond decision in Petitioner's immigration case. It renders moot the following: the immigration court's original order granting bond (dated August 1, 2025), along with the underlying bond memorandum (dated July 31, 2025); ICE's appeal to the BIA of Petitioner's original bond order and memorandum; and the automatic stay of the original bond.

Petitioner's claims in this litigation are based on an immigration court bond order and related ICE actions that are moot. Petitioner's case, therefore, is also moot. The Court should dismiss the Petition for lack of subject matter jurisdiction.

“Article III of the Constitution limits the jurisdiction of federal courts to the consideration of ‘Cases’ and ‘Controversies’ In turn, the ‘case or controversy’ constraint imposes on federal courts a ‘dual limitation’ known as ‘justiciability,’” a doctrine that ““prevents courts from encroaching on the powers of the elected branches of government and guarantees that courts consider only matters presented in an actual adversarial context.”” *Soliman v. United States ex rel. INS*, 296 F.3d 1237, 1242 (11th Cir. 2002) (citations omitted); *see also Al Najjar v. Ashcroft*, 273 F.3d 1330, 1335 (11th Cir. 2001) (same). “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’ ‘a case is moot when it no longer presents a live controversy with respect to which the court can give meaningful relief.’” *Soliman*, 296 F.3d at 1242 (citations omitted).

Here, the Petition is moot because the core ICE action that Petitioner challenges (ICE’s automatic stay of the original bond decision pending appeal to the BIA) is no longer in effect. Nor is the original bond order that led to the stay (and on which Petitioner bases this lawsuit). That DHS’s automatic stay of the original bond order is what Petitioner challenges is clear from the Petition. It is reinforced in the reply to Respondent’s return, in which Petitioner:

- explains that the “core of Petitioner’s argument [is] that ICE’s unilateral abrogation of an Immigration Judge’s release order, which has no corollary or precedent in the U.S. justice system, is blatantly unconstitutional and *ultra vires*.” (D.E. 16, page 1);
- explains that he “solely challenges his unlawful ICE detention primarily on the basis it continues only because ICE unlawfully invoked an illegal [automatic stay] regulation.” (D.E. 16, page 3); and

- describes an inability to challenge detention “because ICE has already itself appealed the IJ’s bond decision to the BIA and invoked an automatic stay without the BIA weighing in, **which is precisely the issue in this case.**” (emphasis added). (D.E. 16, page 4).

Again, the immigration judge’s September 12 order (attached) replaced and rendered moot the original bond order. It also rendered moot ICE’s appeal of the bond order to the BIA, as well as any automatic stay of that order. The Court should reject any request by Petitioner to nevertheless rule on the constitutionality of the automatic stay provision, which would be an improper advisory opinion. *See Al Najjar*, 273 F.3d at 1217 (explaining that any decision on a moot case or issue would be an impermissible advisory opinion). If Petitioner is displeased with the September 12 bond decision, he can appeal it to the BIA. Petitioner recognizes, and indeed thoroughly sets out, the appellate process in his filings.

For these reasons, the Court should dismiss the Petition as moot.

Date: September 15, 2025.

Respectfully submitted,

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