

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
NORTHERN DIVISION AT COVINGTON
CASE NO. 2:25-CV-145-DCR

MOR MATY NDIAYE

NDIAYE

v.

SAM OLSON, *et al.*

RESPONDENTS

RESPONDENT JASON MAYDAK'S RESPONSE TO
PETITION FOR WRIT OF HABEAS CORPUS

Respondent, Jason Maydak, in his official capacity as Boone County Jailer, ("Maydak"), by and through counsel, respectfully submits his Response to Ndiaye's Petition for a Writ of Habeas Corpus (Doc. 1).

I. FACTS

The Boone County Detention Center ("BCDC") is a county jail overseen and operated by the elected Jailer, Jason Maydak. The BCDC has the capacity to house 424 maximum, medium and minimum-security inmates at the main jail and 76 minimum security inmates at the workcamp facility. Though it primarily serves local law enforcement needs, BCDC also contracts with various agencies to house state and federal inmates and detainees. Through its contract with the U.S. Marshall's Office, BCDC houses Immigration and Customs Enforcement ("ICE") detainees.

Pursuant to its contract, BCDC housed Ndiaye Mor Maty Ndiaye ("Ndiaye") from September 1, 2024, to October 2, 2025. Ndiaye was being detained at BCDC by the federal government. (Petition for Writ of Habeas Corpus, Doc. 2 at PageID 1) Ndiaye claims that

Defendant Sam Olson as the Chicago Field Director of ICE is his legal custodian with authority to authorize his release. (*Id.* ¶ 19) Ndiaye also cites Todd Lyons as the Acting Director of ICE and Pamela Bondi as the Attorney General of the Executive Office for Immigration Review as other legal custodians. (*Id.* at ¶¶ 21, 22) And finally, Ndiaye cites Maydak as his immediate custodian. (*Id.* at ¶ 23)

Ndiaye claims that he is being held despite an Immigration Judge's final grant of withholding of removal under 8 U.S.C. § 1231(b)(3). (*Id.* at ¶ 2) For this reason, Petition requests that he be released. *Id.* Ndiaye does not make any specific allegations or claims about BCDC. (*See generally* Doc. 2)

II. LEGAL STANDARD

Writs of habeas corpus “may be granted by the Supreme Court, any justice thereof, the district courts and any circuit judge within their respective jurisdictions.” 28 U.S.C. § 2241(a). Section 2241 “is an affirmative grant of power to federal courts to issue writs of habeas corpus to prisoners being held ‘in violation of the Constitution or laws or treaties of the United States.’” *Rise v. White*, 660 F.3d 242, 249 (6th Cir. 2011) (quoting Section 2241(c)).

III. THE PETITION IS MOOT.

For a case to continue through the court system, it must continually possess a justiciable case or controversy as required by Article III. *Perez v. Hogsten*, No. 10-194-GFVT, 2011 U.S. Dist. LEXIS 51350 (E.D. Ky. May 13, 2011) citing *Briggs v. Ohio Elections Comm’n*, 61 F.3d 487, 492 (6th Cir. 1995). When a party obtains the relief sought, there is no actual controversy between the parties, and the case becomes moot. *Joseph v. Prindle*, No. 11-232-WOB-CJS, 2011 U.S. Dist. LEXIS 150356 (E.D. Ky. Nov. 28, 2011) citing *McPherson v. Mich. High Sch. Athletic Ass’n, Inc.*, 119 F.3d 453, 458 (6th Cir. 1997). Because mootness is a threshold

issue, the [c]ourt must determine whether there is currently an actual controversy between the parties. *Id.* citing *WJW-TV, Inc. v. City of Cleveland*, 878 F.2d 906, 909 (6th Cir. 1989).

A case becomes moot when the issues presented are no longer “live” or the parties lack a legally cognizable interest in the outcome. *Perez v. Hogsten*, No. 10-194-GFVT, 2011 U.S. Dist. LEXIS 51350 (E.D. Ky. May 13, 2011) citing *United States Parole Comm’n v. Geraghty*, 445 U.S. 388, 396, 100 S. Ct. 1202, 63 L. Ed. 2d 479 (1980). When a federal court lacks subject-matter jurisdiction, it must dismiss the case. *Prindle*, 2011 U.S. Dist. LEXIS 150356. Federal courts lack subject-matter jurisdiction to decide questions that become moot due to events that take place after the initiation of litigation. *Id.*

Under 28 U.S.C. § 2241, habeas corpus jurisdiction exists when Ndiaye asserts a claim that his *current* custody is “in violation of the Constitution or laws or treaties of the United States.” *Yong Ho Nam v. Dewalt*, No. 06-CV-112-JBC, 2006 U.S. Dist. LEXIS 86004 (E.D. Ky. Nov. 15, 2006) This Court has found that when the Respondents no longer have custody over the Petitioner, he has obtained the relief sought and the case becomes moot. *Joseph v. Prindle*, No. 11-232-WOB-CJS, 2011 U.S. Dist. LEXIS 150356 (E.D. Ky. Nov. 28, 2011)

Ndiaye initiated this action based on his continued detention at the BCDC. (Petition for Writ of Habeas Corpus, Doc. 2, ¶ 5) However, since the initiation of this action, Ndiaye has been released from BCDC (See Exhibit A attached). Since Ndiaye’s claims are based upon his custody in BCDC and he has been released from custody, his claims are moot.

IV. CONCLUSION

Because his claims have been rendered moot by his release from custody at the BCDC, Respondent Boone County Jailer Jason Maydak respectfully requests that the Court deny the Petition for Writ of Habeas Corpus, and that he be dismissed as a Respondent.

Respectfully submitted,

/s/ Jeffrey C. Mando

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*Attorney for Respondent, Jason Maydak, in
his official capacity as Boone County Jailer*

CERTIFICATE OF SERVICE

This is to certify that on the **7th** day of October, 2025, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system which will provide an electronic notice to: Sarah C. Larcade, Esq.

/s/ Jeffrey C. Mando
Jeffrey C. Mando, Esq. (#43548)