

Table of Authorities

Cases

<i>Campbell v. PMI Food Equip. Grp., Inc.</i> , 509 F.3d 776 (6th Cir. 2007)	2
<i>Elgharib v. Napolitano</i> , 600 F.3d 597 (6th Cir. 2010)	2
<i>Enazeh v. Davis</i> , 107 F. App'x 489 (6th Cir. 2004)	2
<i>Hamama v. Adducci</i> , 912 F.3d 869 (6th Cir. 2018).....	2
<i>United States v. Caceres</i> , 440 U.S. 741 (1979)	3
<i>Villegas de la Paz v. Holder</i> , 640 F.3d 650 (6th Cir. 2010)	3
<i>West v. Kentucky Horse Racing Comm'n</i> , 972 F.3d 881 (6th Cir. 2020).....	3
<i>Zadvydas v. Davis</i> , 533 U.S. 678 (2001)	3

Statutes

8 U.S.C. § 1252(a)(5).....	1
8 U.S.C. § 1252(g)	2

In this suit, petitioner challenged his detention because he alleged that the agency was taking too long to remove him and because he alleged the agency improperly revoked his order of supervision. Two weeks ago, the Court set a hearing in this case for December 3rd and ordered ICE to produce petitioner for that hearing in person. After the Court set the hearing, the agency scheduled petitioner's removal for December 2nd. When petitioner learned of his upcoming removal, he filed an emergency challenge to his removal in the Eleventh Circuit, but the Eleventh Circuit denied his motion. Once petitioner's potential legal challenges to his removal were exhausted, respondents moved to vacate this Court's order requiring his personal attendance at the upcoming hearing because Karki will no longer be in ICE custody during the hearing.

Petitioner's arguments in opposition to respondents' motion are unavailing. Petitioner's primary reason for opposing the motion is his hope that the Court's order will prevent his lawful removal. This is not a valid reason for denying respondents' motion. The Eleventh Circuit is the only court with jurisdiction to hear challenges to petitioner's removal. *See* 8 U.S.C. § 1252(a)(5). And the Eleventh Circuit has already held that his upcoming removal is lawful. (*See* 11th Cir. Order, ECF No. 12-4, PageID.159).

Similarly, petitioner cannot plausibly argue that this Court has jurisdiction to prevent petitioner's removal. Under controlling law, this Court lacks jurisdiction to

hear any challenges to petitioner's removal. *See* 8 U.S.C. § 1252(g); *Hamama v. Adducci*, 912 F.3d 869, 880 (6th Cir. 2018); *Elgharib v. Napolitano*, 600 F.3d 597, 607 (6th Cir. 2010). Petitioner cannot avoid this conclusion by pointing out meaningless factual differences between *Hamama*, *Elgharib*, and this case.

Nor can petitioner deny that his claims are now moot. In this suit, petitioner challenges his detention and, as a remedy, seeks release from custody. (*See* Pet., ECF No. 1, PageID.21). Respondents plan to lawfully end petitioner's detention tomorrow when he is removed from the United States and released from custody. (*See* Supp. Tiruchelvam Decl., ECF No. 12-3, PageID.156–57). Given that, petitioner cannot save his claim from mootness by intentionally prolonging this case beyond the point at which it presents a concrete case or controversy. *See Enazeh v. Davis*, 107 F. App'x 489, 491 (6th Cir. 2004).

Finally, petitioner's arguments that his constitutional claim cannot be moot is incorrect. Even constitutional claims become moot when they cease to present an actionable case or controversy. *See Campbell v. PMI Food Equip. Grp., Inc.*, 509 F.3d 776, 782 (6th Cir. 2007) (“The Workers’ constitutional claims are therefore moot and the district court properly declined to grant a declaratory judgment.”). And, in any event, petitioner never raised a valid constitutional claim in this case. His argument that his detention violated the Fifth Amendment because his removal was not likely in the foreseeable future was frivolous when this suit was filed. *See*

Zadvydas v. Davis, 533 U.S. 678, 701 (2001); (Tirchelvam Decl., ECF No. 6-2, PageID.78–80). And his claim regarding the agency’s revocation of his order of supervision relies entirely on the agency’s violation of its own regulation, which, under controlling law, would neither establish a constitutional violation under the circumstances of this case, even if it were true (and it is not), *see United States v. Caceres*, 440 U.S. 741, 754–55 (1979); *West v. Kentucky Horse Racing Comm’n*, 972 F.3d 881, 892 (6th Cir. 2020), nor entitle petitioner to a release from detention because none of petitioner’s criticisms of the agency’s revocation of his order of supervision would have altered the agency’s discretionary decision to detain him to facilitate his removal. *See Villegas de la Paz v. Holder*, 640 F.3d 650, 656 (6th Cir. 2010).

Respectfully submitted,

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Certificate of Service

I hereby certify that on December 1, 2025, I electronically filed the foregoing paper with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the parties of record.

/s/ Zak Toomey

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