

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

ABHISHEK RASHMI SHAH,)

Petitioner,)

v.)

DON JONES et al.,)

Respondents.)

No. CIV-25-1238-D

REPORT AND RECOMMENDATION

Petitioner Abishek Rashmi Shah, a noncitizen proceeding pro se and in forma pauperis, seeks habeas corpus relief under 28 U.S.C. § 2241. Doc. 1.¹ Chief United States District Judge Timothy D. DeGiusti referred the matter to the undersigned Magistrate Judge for initial proceedings consistent with 28 U.S.C. § 636(b)(1)(B), (C). Doc. 4. Because Petitioner is no longer in custody and this Court can grant him no relief, the undersigned recommends the Court dismiss the petition as moot.

I. Factual background and Petitioner's claims.

Petitioner is a citizen of India. Doc. 12, Att. 1, at 2. He was detained within this jurisdiction when he filed his petition. Doc. 1. Petitioner states in

¹ Citations to a court document are to its electronic case filing designation and pagination. Except for capitalization, quotations are verbatim unless otherwise indicated.

his petition that an Immigration Judge (IJ) entered an order of removal against him on June 13, 2025. *Id.* at 1. He failed to timely appeal the order. *Id.*

Petitioner asks the Court to order his release from “detention under appropriate supervision” as Respondents detained him past the presumptively reasonable removal period under *Zadyvdas v. Davis*, 533 U.S. 678 (2001), and “[t]here is no significant lik[e]lihood of [his] removal in the reasonably foreseeable future.” Doc. 1, at 1.

II. Respondents’ notices to the Court.

On November 18, 2025, the undersigned ordered Respondents to “not transfer Petitioner to another district unless they provide[d] [the Court] with **72-hours** advance notice of the intended move.” *See* Doc. 8, at 4. On December 4, 2025, counsel for Respondents filed notice with the Court informing the Court that “Petitioner was removed from the United States to India via charter flight on November 17, 2025, a day prior to the Court’s Order.” Doc. 12, at 1. On December 9, 2025, counsel filed another notice with the Court stating that Petitioner has been removed from the United States. Doc. 13.

III. Screening.

This Court must review a habeas petition and dismiss it “[i]f it plainly appears from the petition and any attached exhibits that the petitioner is not entitled to relief in the district court.” Rule 4, Rules Governing Section 2254

Cases in the U.S. District Courts;² *see also Garza v. Davis*, 596 F.3d 1198, 1205 (10th Cir. 2010) (holding that a federal court possesses “the discretion . . . to dismiss the 28 U.S.C. § 2241 petition if it appear[s] that the petitioner was not entitled to relief”). Having screened the petition, the undersigned recommends the Court dismiss the petition as moot.

IV. The petition is moot because Petitioner is no longer in custody.

“The writ of habeas corpus shall not extend to a prisoner unless . . . he is in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2241(c)(3). “[T]he ‘in custody’ requirement of § 2241 is satisfied” if a petitioner files the habeas application while they are incarcerated. *King v. Ciolli*, 2024 WL 1179908, at *2 (10th Cir. Mar. 19, 2024) (citing *Spencer v. Kemna*, 523 U.S. 1, 7 (1998) & *Riles v. INS*, 310 F.3d 1253, 1256 (10th Cir. 2002)).

A § 2241 petition must be filed in the district where the prisoner is confined. *Brace v. United States*, 634 F.3d 1167, 1169 (10th Cir. 2011). “[J]urisdiction attaches on the initial filing for habeas corpus relief, and it is

² The Court may apply the Rules Governing § 2254 Cases to habeas petitions arising under § 2241. *See* Rule 1(b); *Whitmore v. Parker*, 484 F. App’x 227, 231 n.2 (10th Cir. 2012) (“The Rules Governing 2254 Cases may be applied discretionarily to habeas petitions under § 2241.” (citing *Boutwell v. Keating*, 399 F.3d 1203, 1211 n.2 (10th Cir. 2005))).

not destroyed by a transfer of the petitioner and the accompanying custodial change.” *Santillanes v. U.S. Parole Comm’n*, 754 F.2d 887, 888 (10th Cir. 1985); *cf. Rumsfield v. Padilla*, 542 U.S. 426, 442 (2004).

Petitioner was confined in this district when he filed his § 2241 petition. *See* Doc. 1, at 1. But he is no longer in custody as Respondents have removed him to India. *See* Docs. 12 & 13.

Petitioner was removed from the United States on November 17, 2025. Doc. 12, at 1. Having no knowledge of this fact, the Court ordered a Response on November 18, 2025. Doc. 8. Respondents then waited over two weeks to inform the Court about Petitioner’s whereabouts. To maximize judicial resources and the efficient management of its dockets, this Court has consistently sought information from Respondents on the whereabouts of noncitizens they are detaining, and the Court will continue to do so. Although Respondents did not flout a Court order, the Court expects Respondents to promptly inform the Court of a noncitizen’s transfer or removal.

Although this Court’s jurisdiction attached when Petitioner filed his habeas corpus petition, his release from custody renders his petition moot. Federal courts may only adjudicate live controversies. *See Alvarez v. Smith*, 558 U.S. 87, 92 (2009) (“An actual controversy must be extant at all stages of review, not merely at the time the complaint is filed.” (quoting *Preiser v.*

Newkirk, 422 U.S. 395, 401 (1975))). A case becomes moot “if an event occurs while a case is pending . . . that makes it impossible for the court to grant ‘any effectual relief whatever’ to a prevailing party” *Church of Scientology v. United States*, 506 U.S. 9, 12 (1992) (quoting *Mills v. Green*, 159 U.S. 651, 653 (1895)).

“Mootness . . . is a fundamental bar to judicial review that must be accounted for at all stages of a proceeding, and applies in habeas as in any other type of litigation.” *Miller v. Glanz*, 331 F. App’x 608, 610 (10th Cir. 2009). A habeas petition does not become moot, however, just because a petitioner is no longer in custody. Rather, the relevant inquiry is whether the petitioner is subject to collateral consequences “adequate to meet Article III’s injury-in-fact requirement.” *King*, 2024 WL 1179908, at *2 (quoting *Spencer*, 523 U.S. at 14).

Once Respondents released Petitioner from their custody, he no longer had a redressable injury arising from his detention. *See id.* (holding that a “petitioner must demonstrate some concrete and continuing injury” to overcome mootness after release from custody (quoting *Spencer*, 523 U.S. at 7)). There are no collateral consequences stemming from Petitioner’s detention pending removal that continue to present a live case or controversy under Article III of the Constitution. *See, e.g., Ferry v. Gonzales*, 457 F.3d 1117, 1132 (10th Cir. 2006) (holding that petitioner’s “inability to return to the United

States” “stem[med] from his removal order,” so it was not a collateral consequence sufficient to support justiciability under Article III of his habeas petition challenging illegal detention). So the Court should dismiss the petition as moot. *Sule v. I.N.S.*, 1999 WL 668716, at *1 (10th Cir. 1999) (dismissing habeas petition as petitioner’s deportation to Nigeria “mooted his challenge to the legality of his detention”).

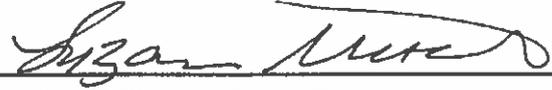
V. Recommendation and notice of right to object.

Petitioner’s release from custody and removal to India render his petition moot because there is no live case or controversy for this Court to decide. The undersigned therefore recommends the Court dismiss the habeas corpus petition as moot. Doc. 1.

The undersigned advises the parties of their right to file an objection to this Report and Recommendation with the Clerk of Court on or before January 6, 2026, under 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b)(2). The undersigned further advises the parties that failure to file a timely objection to this Report and Recommendation waives the right to appellate review of both factual and legal issues contained herein. *See Moore v. United States*, 950 F.2d 656, 659 (10th Cir. 1991).

This Report and Recommendation disposes of all issues and terminates the referral to the undersigned Magistrate Judge in the captioned matter.

ENTERED this 16th day of December, 2025.

A handwritten signature in black ink, appearing to read "Suzanne Mitchell", is written over a horizontal line.

SUZANNE MITCHELL
UNITED STATES MAGISTRATE JUDGE