

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

HECTOR MIGUEL HERRERA-MORENO,

Petitioner,

v.

Warden, North Lake Correctional Facility;
Secretary of the U.S. Dept. of Homeland
Security; U.S. Attorney General; Field Office
Director, U.S. Immigration and Customs
Enforcement, Detroit Field Office,

Respondents.

Case No. 1:25-cv-1411

Hon. Hala Y. Jarbou
Chief U.S. District Court Judge

Hon. Ray Kent
U.S. Magistrate Judge

**FEDERAL RESPONDENTS' REPLY IN SUPPORT OF MOTION TO DISMISS
PETITION FOR WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241**

Petitioner's Response offers no argument to undermine the conclusion that the Court should dismiss his Petition for Writ of Habeas Corpus under 28 U.S.C. § 2241 for mootness. As stated in Federal Respondents' Memorandum in Support of Motion to Dismiss (Opening Brief), this case is moot because ICE has already given Petitioner the relief he requests, so there is nothing further for this Court to do. The Petition requested that the Court: "Order his immediate release from custody," or "order DHS to file the Notice to Appear within 48 hours and require a custody redetermination hearing within 7 days . . ." (Pet., ECF No. 1, PageID.3.) ICE filed the Notice to Appear with the Detroit immigration court on November 12, 2025, and a bond hearing was scheduled on November 19, 2025. A bond redetermination would have occurred at that time had Petitioner not withdrawn his request. In addition, another bond hearing was held on December 3, 2025, at which Petitioner was denied bond because he "did not establish that he does not present a danger or flight risk." (Ex. A, Bond Denial Order.)

The Response contradictorily argues both that the November 19, 2025 hearing “did not occur,” and that “at the scheduled custody hearing,” the immigration judge “stated he lacked jurisdiction over the pending bond motion.” (Resp. ECF No. 10, PageID.64-65.) But these allegations are not supported by any sworn statement of personal knowledge, declaration under penalty of perjury, or notarization. *See, e.g.*, 28 U.S.C. § 1746. “Arguments in the parties’ briefs are not evidence.” *Hoag v. Commissioner of Social Sec.*, No. 1:09-cv-803, 2010 WL 458872, at *3 (W.D. Mich. Feb. 3, 2010) (quoting *Duha v. Agrium, Inc.*, 448 F.3d 867, 879 (6th Cir.2006)). And “[a]n attorney’s unsworn statements in a brief are not evidence.” *Id.* (quoting *Puglisi v. United States*, 586 F.3d 209, 217 (2d Cir.2009)). As a result, the Court should not consider Petitioner’s unsupported allegations in deciding this motion. Moreover, these contentions are directly contradicted by the sworn declaration of ICE Deportation Officer Gabriel Hoppe, who states that at the November 19, 2025 hearing, Petitioner withdrew his request to be released on a bond. (Hoppe Decl., ECF No. 7-1, PageID.57, ¶ 21.) They are also contradicted by Petitioner’s own Renewed Motion for Custody Redetermination, filed with the Detroit immigration court. (Ex. B, Renewed Motion.) The Renewed Motion states that “a custody redetermination hearing was held on November 19, 2025” and that the Court “permitted Respondent to withdraw and resubmit a complete bond request.” (*Id.* pp. 1-2, ¶¶ 3, 5.) There is no evidence to support Petitioner’s contention that the immigration court declined jurisdiction over Petitioner’s bond redetermination. Regardless, another bond hearing was held on December 3, 2025, and “after full consideration of the evidence presented,” the immigration judge denied bond. (Ex. A, Bond Denial Order.) As set forth in the Opening Brief, Petitioner’s claims became moot after the November 19, 2025, bond hearing. But even if the Court decides they were not moot at that time, the December 3, 2025 hearing certainly renders them so.

Because ICE has already given Petitioner the relief he requests in his Petition—it filed a Notice to Appear with the Detroit immigration court and held two separate bond hearings—the Court should dismiss this case as moot. *See Whale and Dolphin Conservation v. National Marine Fisheries Service*, 573 F. Supp. 3d 175, 178-79 (D.D.C. 2021) (“a case becomes moot when ‘the court can provide no effective remedy because a party has already obtained all the relief that it has sought.’” (quoting *Conservation Force, Inc. v. Jewell*, 733 F.3d 1200, 1204 (D.C. Cir. 2013)).

And to the extent Petitioner would like to challenge the immigration court’s bond decision, the Court lacks jurisdiction over such claims. First, Petitioner should exhaust administrative remedies by appealing the bond decision to the Board of Immigration Appeals, instead of having this Court review the decision in the first instance. *See Monroy Villalta v. Greene*, --- F. Supp. 3d ---, 2025 WL 2472886, at *2 (N.D. Ohio Aug. 5, 2025). Second, Petitioner is not entitled to review of the immigration judge’s discretionary decision to deny his request for bond. 8 U.S.C. 1226(e) (“No court may set aside any action or decision by the Attorney General under this section regarding the detention of any alien or the revocation or denial of bond or parole.”)

For these reasons, Federal Respondents respectfully request that the Court dismiss Hector Miguel Herrera-Moreno’s Petition for Writ of Habeas Corpus Under 28 U.S.C. § 2241 as moot. Alternatively, the Court should dismiss the Petition because he has not exhausted his administrative remedies.

Respectfully submitted,

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