

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Civil No. 0:25-cv-04396-KMM-SGE

LUIS A. M.,

Petitioner,

v.

GARLAND, *et al.*

Respondents.

**RESPONSE TO PETITION
FOR WRIT OF HABEAS
CORPUS**

Respondents hereby notify the Court that Petitioner Luis Alvarez Mizhirumbay (“Petitioner”) was released from ICE custody on December 11, 2025, after payment of a \$12,500 bond. *See* Declaration of Liles H. Repp, Exhibit 1, Notice on ICE Form I-830E. As the Petition, *see* Dkt. No. 1 (“Petition”), seeking his release on bond is now moot, Respondents respectfully request this action be dismissed.

ARGUMENT

Courts in this circuit have applied two varieties of mootness to resolve habeas petitions following habeas petitioners’ release from custody: Article III mootness and prudential mootness. Here, the Court may find under either theory that Petitioner’s challenge to his detention is moot in light of his release.

First, the Court may find that Petitioner’s release renders the Petition moot under Article III of the Constitution because, as Judge Schiltz observed in finding that release mooted a petitioner’s pre and post final order based habeas petitions, even “if the Court . . . gave [petitioner] every bit of the relief that he seeks . . ., [he] would find himself in *precisely* the situation in which he already finds himself. Absolutely nothing would change.

This is the very definition of mootness.” *Kargbo v. Brott*, No. 15-cv-2713 (PJS/LIB), 2016 WL 3676162 * 2 (D. Minn. July 6, 2016) (citation omitted) (emphasis in original); *accord Kitoy v. Immigration*, No. 20-cv-1903 (ECT/DTS), 2020 U.S. Dist. LEXIS 224164, at *3 (D. Minn. Nov. 4, 2020) (“the injury Kitoy complains of (detention) no longer exists and he has already obtained the relief he requests of this Court (release)”), *report and recommendation adopted, Fabien M. K. v. Immigration & Customs Enft*, No. 20-cv-1903 (ECT/DTS), 2020 U.S. Dist. LEXIS 225242 (D. Minn. Nov. 30, 2020).

“Article III of the United States Constitution limits the jurisdiction of the federal courts to actual, ongoing cases and controversies.” *Haden v. Pelofsky*, 212 F.3d 466, 469 (8th Cir. 2000); *see* U.S. CONST. art. III, §2, cl. 1. An actual controversy must exist at all stages of review, not merely when the complaint is filed. *Ark. AFL-CIO v. F.C.C.*, 11 F.3d 1430, 1435 (8th Cir. 1993) (en banc). “When, during the course of litigation, the issues presented in a case ‘lose their life because of the passage of time or a change in circumstances . . . and a federal court can no longer grant effective relief,’ the case is considered moot.” *Haden*, 212 F.3d at 469 (quoting *Beck v. Mo. State High Sch. Activities Ass’n*, 18 F.3d 604, 605 (8th Cir. 1994)). When an action no longer satisfies this requirement, it is rendered moot and must be dismissed. *Potter v. Norwest Mortgage, Inc.*, 329 F.3d 608, 611 (8th Cir. 2003).

“Courts in this district have generally held that release from custody pending removal moots a habeas petition challenging that custody.” *Lesum v. Sessions*, No. CV 18-1340 (JRT/BRT), 2018 WL 5303878, at *1 (D. Minn. Oct. 5, 2018) (recommending denial

of petition as moot following petitioner's release), *report and recommendation adopted*, 2018 WL 5303042 (D. Minn. Oct. 25, 2018); *see, e.g., Kargbo*, 2016 WL 3676162, at *1 (dismissing petitions over petitioner's objections despite the possibility the petitioner could later be taken into custody).

However, "whether the petition becomes moot upon the petitioner's release depends on whether any of the potential exceptions to the mootness doctrine may apply." *Mohamed v. Lynch*, 2016 WL 563164, at **3, 4 (D. Minn. Jan. 26, 2016) (finding no exceptions applied and recommending dismissal), *report and recommendation adopted*, 2016 WL 593512 (D. Minn. Feb. 12, 2016). A Petition should not be dismissed as moot if: "(1) secondary or 'collateral' injuries survive after resolution of the primary injury; (2) the issue is deemed a wrong capable of repetition yet evading review; (3) the defendant voluntarily ceases an allegedly illegal practice but is free to resume it at any time; or (4) it is a properly certified class action suit." *Id.* at *3 (citation omitted).

As numerous courts have found in similar circumstances, none of the exceptions to the mootness doctrine apply in this circumstance. No secondary or collateral injuries survive,¹ as Petitioner has alleged no "concrete and continuing injury other than the now-ended incarceration" *Id.* at *3 (citation and internal quotation marks omitted); *see generally* Dkt. No. 1. The capable of repetition and evading review exception does not

¹ Though the Petition sought an order requiring ICE to provide medical treatment, as the Court observed, such conditions of confinement claims are "not the kind of issue that can be litigated in a habeas proceeding." Dkt No. 7 at 2. Moreover, as Petitioner is no longer in ICE custody, it could no longer provide him with any medical treatment.

apply, as “there is nothing in the record to suggest that ICE will again subject Petitioner to pre-removal detention,” and “any future detention ‘will not be a repeat’ of the previous detention; ‘it will be a different type of detention that will be based on a different justification.’” *Lesum*, 2018 WL 5303878, at *1 (cleaned up; citations and internal quotation marks omitted). As to the third exception, as in *Kargbo*, “this is not a case in which the government voluntarily ceased allegedly unlawful conduct but is free to restart such conduct at whim.” 2016 WL 3676162, at *2 (citation omitted). Instead, Petitioner initiated his own release by posting bond, *see* Ex. 1, and if he was taken back into custody, it would be “impossible for the government to repeat the *same* unlawful conduct that [he] challenged” 2016 WL 3676162, at *2 (emphasis in original) (noting hypothetical future detention may “be illegal for different factual and legal reasons”).² Finally, this case is not a class action suit. As the Court cannot grant Petitioner his requested relief and none of the mootness exceptions apply, the Petition should be dismissed under Article III.

Alternatively, prudential mootness, “[t]he cousin of the mootness doctrine, in its strict Article III sense,” allows a court to treat a case as moot for prudential reasons, even if it has jurisdiction under Article III to decide it. *Ali v. Cangemi*, 419 F.3d 722, 724 (8th Cir. 2005) (citation omitted). In *Ali*, the Eighth Circuit discussed both Article III mootness and prudential mootness. Noting the petitioner’s release could, but did not automatically, moot the habeas petition in the Article III sense, *see Spencer v. Kemna*, 523 U.S. 1, 7

² In that event, Petitioner would (of course) be free to bring a new habeas petition to challenge any alleged deficiencies related to such later detention.

(1998), the court still found the case to be “prudentially moot.” *Ali*, 419 F.3d at 724. It did so, in large part, due to its “inability to provide an effective remedy at th[at] time.” *Id.* The facts in *Ali* differed from the facts here, as the petitioner had been released accidentally by ICE, and ICE put forward evidence of an intent to re-detain Ali as soon as he was located. No similar evidence exists here, but even with that important factual distinction, the Eighth Circuit *still* found the case to be prudentially moot.

Here as in *Ali*, Petitioner is not in custody, it is not clear whether he will ever be detained in future, and the Court cannot provide his requested remedy at this time because he has already been released. *See* 419 F.3d at 724; *see* Dkt. No. 1 (seeking an order requiring “Respondents to release Petitioner immediately”). Prudential mootness therefore provides another basis for dismissal following Petitioner’s release on bond. *See, e.g., Nnodi H. v. Sec’y of Dep’t of Homeland Sec.*, No. 18-cv-1986 (ECT/TNL), 2019 WL 2424044, at *3 (D. Minn. May 24, 2019) (“Petitioner is no longer being detained, having posted a bond Arguably, he has received the primary relief that he sought when he first filed the Petition.”), *report and recommendation adopted sub nom. Nnodi H. v. McAleenan*, 2019 WL 3345443 (D. Minn. July 25, 2019).

Respondents therefore urge the Court find, as in the cited cases, that the Petition should be dismissed as moot, either under Article III or due to prudential mootness.

CONCLUSION

Petitioner’s detention has ended, and the Petition which challenges that detention is moot. This action should now be dismissed, and no evidentiary hearing is necessary.

Dated: December 19, 2025

Respectfully submitted,

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s/ Liles H. Repp

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