

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

ROBERTO FRANCISCO FRANCO
RODRIGUEZ,

Petitioner,

No. 2:26-cv-00002-KCD-DNF

v.

WARDEN, Florida Soft Side South
facility, in his official capacity,

Respondents.

RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS

Petitioner Roberto Francisco Franco Rodriguez challenges his continued detention by U.S. Immigration and Customs Enforcement ("ICE"). Franco Rodriguez is no longer in ICE custody, as he was removed from the United States on January 26, 2026. Franco Rodriguez's petition should therefore be denied as moot.

FACTUAL BACKGROUND

Franco Rodriguez is a 50-year-old national and citizen of Cuba who was paroled into the United States in 1980. (Petition, Doc. 1 ¶ 1.) On September 11, 2002, he was he was ordered removed from the United States. (Doc. 1-4 at 2.) He was placed under an Order of Supervision on December 10, 2002. (Doc. 1-5 at 3.)

On November 2, 2025, his Order of Supervision was revoked, and Franco

Rodriguez was taken into ICE custody. (Petition, Doc. 1 ¶ 24.) He was removed from the United States on January 26, 2026. (Detention History, Ex. 1.)

ARGUMENT

Franco Rodriguez challenges his immigration detention at Florida Soft Side South. Because Franco Rodriguez is no longer in immigration custody, his Petition for a Writ of Habeas Corpus should be denied as moot.

Mootness is a jurisdictional doctrine that flows directly from the limitation, imposed by Article III of the Constitution, that federal court jurisdiction extends only to the consideration of cases and controversies. See U.S. Const. art. III; *Al Najjar v. Ashcroft*, 273 F.3d 1330, 1335-36 (11th Cir. 2001). “[A] case is moot when the issues presented are no longer ‘live’ or the parties lack a legally cognizable interest in the outcome.” *Al Najjar*, 273 F.3d at 1335-36. In other words, “a case is moot when it no longer presents a live controversy with respect to which the court can give meaningful relief.” *Id.* at 1336 (internal quotation marks omitted). Thus, “[i]f events that occur subsequent to the filing of a lawsuit or an appeal deprive the court of the ability to give the plaintiff or appellant meaningful relief, then the case is moot and must be dismissed.” *Id.*

Of course, “a petitioner’s release from custody does not automatically moot a petitioner’s claim.” *Fregis v. Holder*, 2014 WL 54839, at *1 (M.D. Fla. Jan 7, 2014) (citing *Spencer v Kemna*, 523 U.S. 1, 7-8 (1998)). Indeed, “[t]he courts have

developed two exceptions to the mootness doctrine: (1) the existence of collateral consequences; and (2) when events surrounding the case are capable of repetition yet evading review.” *Id.* at *2.

The collateral consequences exception to the mootness doctrine applies “when there is some remaining ‘collateral consequence’ that may be redressed by success on the petition.” *Fregis*, 2014 WL 54839, at *2 (quoting *Spencer*, 523 U.S. at 7). In other words, a petitioner must demonstrate that he is suffering a continued, concrete injury that can be remedied by the Court. *See Spencer*, 523 U.S. at 7-8.

A second exception to mootness is the so-called “capable-of-repetition doctrine.” *See Spencer*, 523 U.S. at 17. This exception “applies only in exceptional situations,” *id.*, where “(1) there is a reasonable expectation or a demonstrated probability that the *same* controversy will recur involving the same complaining party, and (2) the challenged action is in its duration too short to be fully litigated prior to its cessation or expiration,” *Al Najjar*, 273 F.3d at 1336. Importantly, “[t]he remote possibility that an event might recur is not enough to overcome mootness, and even a likely recurrence is insufficient if there would be ample opportunity for review at that time.” *Id.*

Here, Franco Rodriguez challenges his continued detention in ICE custody. Because Franco Rodriguez is no longer detained, his petition should be denied as moot unless an exception to the mootness doctrine applies. *See Fregis*, 2014 WL

54839, at * 1. None does. Franco Rodriguez has not put forth any evidence of a continuing injury that could be remedied by this Court, as is his burden under *Spencer*. See 523 U.S. at 13-14. Similarly, Franco Rodriguez has not provided any reason to believe that he will be taken back into custody absent a violation of his conditions of supervision, and “[t]he remote possibility that an event might recur is not enough to overcome mootness” See *Al Najjar*, 273 F.3d at 1336. Moreover, should Franco Rodriguez ever face ICE detention again, he would not be foreclosed from filing another petition under section 2241. Accordingly, neither exception to the mootness doctrine applies, so Franco Rodriguez’s habeas petition should be dismissed. See *Fregis*, 2014 WL 54839, at *2-3.

CONCLUSION

As explained above, Franco Rodriguez is no longer in immigration custody. Because no exception to the mootness doctrine applies, Respondents respectfully request Franco Rodriguez’s petition be denied as moot.

///

///

///

///

///

///

DATED this 26th day of January, 2026.

Respectfully submitted,

GREGORY W. KEHOE
United States Attorney

By: /s/ Chad C. Spraker
CHAD C. SPRAKER
Assistant United States Attorney
USA No. 198
2110 First Street, Suite 3-137
Ft. Myers, Florida 33901
Telephone: (239) 461-2200
Facsimile: (239) 461-2219
E-mail: chad.spraker@usdoj.gov