

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FT. MYERS DIVISION**

CARLOS MARTINEZ SANTANDER,

Petitioner,

v.

Case No. 2:26-cv-164-KCD-NPM

WARDEN MATTHEW MORDANT,
ET AL.,

Respondents.

**RESPONSE TO THE COURT'S ORDER TO SHOW CAUSE AND MOTION
TO DISMISS PETITION FOR WRIT OF HABEAS CORPUS
UNDER 28 U.S.C. § 2241**

Respondents, by and through undersigned counsel, hereby respond to the Court's February 3, 2026 Order to Show Cause (ECF No. 5), and move to dismiss Petitioner's Writ of Habeas Corpus Under 28 U.S.C. § 2241 ("Hab. Pet.") (ECF No. 1) for lack of jurisdiction under Federal Rule of Civil Procedure 12(b)(1). In support, Respondents state as follows:

BACKGROUND

Petitioner is a citizen of Venezuela who entered the United States on or about February 2020. Hab. Pet., ¶¶ 14, 19. On January 17, 2026 he was apprehended by immigration enforcement officials. *Id.* at ¶ 22. On January 27, 2026, he filed the instant petition seeking release from immigration detention at the Florida Soft Side detention facility. *See generally* Hab. Pet. On February 10, 2026, Immigration Judge Jose Rivera-

Ortiz granted petitioner a \$3,500 bond which he has since posted. *See* Order of the Immigration Judge, attached as “Exhibit A”; *see also* Form I-203, attached as “Exhibit B.” Petitioner is no longer detained. *Id.* In response to this Court’s Order to Show Cause, ECF No. 5, and for the reasons set forth below, Respondent timely responds to respectfully request that this Court dismiss Petitioner’s Writ of Habeas Corpus.

LEGAL STANDARDS

I. Rule 12(b)(1) – Lack of Subject Matter Jurisdiction

Federal Rule of Civil Procedure 12(b)(1) requires dismissal of claims where the Court “lack[s] jurisdiction over the subject matter.” Fed. R. Civ. P. 12(b)(1). A motion to dismiss may be brought pursuant to Fed. R. Civ. P. 12(b)(1) in one of two ways: as a facial challenge or a factual challenge. *Kennedy v. Floridian Hotel, Inc.*, 998 F.3d 1221, 1230 (11th Cir. 2021). A facial attack challenges whether a plaintiff “has sufficiently alleged a basis of subject matter jurisdiction, and the allegations in his complaint are taken as true for the purposes of the motion.” *Id.* By contrast, a factual attack “challenges the existence of subject matter jurisdiction irrespective of the pleadings, and extrinsic evidence may be considered.” *Id.*

Federal courts may only hear “cases” and “controversies.” U.S. CONST. art. III, § 2, cl. 1. A court lacks jurisdiction where an action no longer presents a live controversy through which meaningful relief can be granted. *Fla. Ass’n of Rehab. Facilities, Inc. v. Fla. Dep’t of Health and Rehab. Servs.*, 225 F.3d 1208, 1216-17 (11th Cir. 2000). The doctrine of mootness demands that the Court “look at the events at the

present time, not at the time the complaint was filed” *Dow Jones & Co. v. Kaye*, 256 F.3d 1251, 1254 (11th Cir. 2001). And where events take place subsequent to the filing of the claim that would preclude a court from granting meaningful relief, the issue becomes moot and the case must be dismissed. *Al Najjar v. Ashcroft*, 273 F.3d 1330, 1336 (11th Cir. 2001).

II. Writ of Habeas Corpus

As relevant here, the Court has power to grant a writ of habeas corpus where a petitioner “is in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2241(c)(3); *Walker v. Johnston*, 312 U.S. 275, 286 (1941). “The burden rests on the person in custody to prove his detention is unlawful.” *Benito Vasquez v. Moniz*, No. 25-11737-NMG, 2025 WL 1737216, at *1 (D. Mass. June 23, 2025).

ARGUMENT

The doctrine of mootness derives directly from the case-or-controversy limitation because “an action that is moot cannot be characterized as an active case or controversy.” *Adler v. Duval County Sch. Bd.*, 112 F.3d 1475, 1477 (11th Cir.1997). “[W]hen the issues presented are no longer ‘live’ or the parties lack a legally cognizable interest in the outcome” the matter is moot. *Al Najjar*, 273 F.3d at 1335-36; *see also Florida Ass’n of Rehab. Facilities, Inc.*, 225 F.3d at 1216-17 (finding a case moot when it no longer presents a controversy that can be meaningfully remedied through the court). In the habeas context the general rule is that there is only a live case or controversy

when a petitioner is in custody. 28 U.S.C. § 2241(c); *Spencer v. Kemna*, 523 U.S. 1, 7-8 (1998); *Salmeron-Salmeron v. Spivey*, 926 F.3d 1283, 1289 (11th Cir. 2019). Accordingly, if—subsequent to the filing of the lawsuit—events take place that deprive the court of the ability to grant meaningful relief, the matter is moot and the case must be dismissed. *See, e.g., Hall v. Beals*, 396 U.S. 45, 48 (1969) (per curiam).

Here, Petitioner—though detained at the time the petition was filed—has since been released from custody. *See* Exhibit B. As reflected in the Immigration Judge’s bond order, he was granted a \$3,500 bond, waived appeal of that order, and then posted post. *Id.*; *see also* Exhibit A. There is no relief for the Court to grant because Petitioner is no longer detained. Because Petitioner challenges his detention—and only his detention—the general rule in immigration habeas petition mootness should apply, and this case should be dismissed.

To the extent that Petitioner asserts that this matter is not moot because his release continues to include conditions—such as routine check-ins, ankle monitoring, etc.—Respondents first note that Petitioner’s prayer for relief asks the Court for either immediate release, release on recognizance or parole, or “a low bond or reasonable conditions of supervision[.]” Hab. Pet., Prayer for Relief, pp. 20, no. 3. In other words, Petitioner has already relief within the scope of that requested from this Court.

CONCLUSION

Petitioner’s claims must be dismissed. Petitioner is no longer detained and the Court lacks a mechanism to provide meaningful relief. This matter is moot.

LOCAL RULE 3.01(g) CERTIFICATION

Pursuant to Local Rule 3.01(g), the undersigned certifies that she has contacted
Petitioner's counsel, who opposes dismissal of the Habeas Petition (ECF No. 1).

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on February 23, 2026, I electronically filed the foregoing with the Clerk of Court by using the CM/ECF system, which will send a notice of electronic filing to all counsel of record.

/s/ Amanda Saylor

Amanda Saylor

Assistant United States Attorney