

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

ROBERT TRINIDAD-SUAREZ,

Petitioner,

Case No. 2:26-cv-710-JES-DNF

v.

SECRETARY KRISTI NOEM, et al.,

Respondents.

_____/

**RESPONSE TO EMERGENCY MOTION TO COMPEL
RESPONDENTS TO FACILITATE PETITIONER'S RETURN
TO THE UNITED STATES, TO PRESERVE THIS COURT'S
JURISDICTION, AND FOR IMMEDIATE INJUNCTIVE RELIEF**

Federal Respondents hereby respond to Petitioner Robert Trinidad-Suarez's Emergency Motion to Compel Respondents to Facilitate Petitioner's Return to the United States, to Preserve this Court's Jurisdiction, and for Immediate Injunctive Relief (Doc. 8), and this Court's Order requiring such response to specifically address this Court's jurisdiction (Doc. 9). Trinidad-Suarez is no longer in ICE custody, as he was removed on May 5, 2026. *See* Exhibit A (Detention History). His habeas petition (Doc. 1), should therefore be denied as moot. Moreover, this Court has no subject matter jurisdiction to review Petitioner's challenge to his expedited removal proceeding. Petitioner's emergency motion should be denied.

ARGUMENT

I. Petitioner's Claims are Moot.

Federal Respondents submitted their Response to Petitioner's habeas petition on April 6, 2026. Doc. 4. As discussed in that Response, Petitioner's final order of removal became effective as of May 6, 2021, after he withdrew his credible fear claim on March 18, 2026. There was no temporary restraining order or other impediment preventing ICE from executing the removal order while Petitioner's habeas petition was pending. Petitioner was removed from the United States on May 5, 2026. Ex. A. Because Petitioner is no longer in immigration custody, his Petition for a Writ of Habeas Corpus should be denied as moot.

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). Still, the Eleventh Circuit has found that in the immigration context, a habeas petition filed by an alien who is subsequently deported may survive a mootness challenge where the petition challenges not only his detention, but also his final order of removal. *See Moore v. Ashcroft*, 251 F.3d 919, 922 (11th Cir. 2001). However, as discussed further below, this Court has no jurisdiction to address the challenges to his final order of removal that Petitioner now raises in his emergency motion, so this action remains moot. Because there is no live case or controversy that can be remedied by any order of this Court, this case should be dismissed.

II. The Court lacks jurisdiction to review Petitioner's challenges to his expedited removal proceedings.

In immigration habeas cases related to removal proceedings—as here—the INA divests this Court's jurisdiction to consider challenges to expedited removal under § 1225(b)(1). 8 U.S.C. § 1252(a)(2)(A). The INA specifically strips a court's jurisdiction (via habeas or otherwise) to review:

(i) . . . any individual determination or to entertain any other cause or claim arising from or relating to the implementation or operation of an order of removal pursuant to section 1225(b)(1) . . . ,

(ii) . . . a decision by the Attorney General to invoke the provisions of such section,

(iii) the application of such section to individual aliens, including the determination made under section 1225(b)(1)(B) . . . , or

(iv) . . . procedures and policies adopted by the Attorney General to implement the provisions of section 1225(b)(1).

8 U.S.C. § 1252(a)(2)(A).

These jurisdiction-stripping provisions are subject to limited exceptions for review set out in § 1252(e). Specifically, habeas cases involving “any determination made under section 1225(b)(1) . . . shall be limited to determinations of—”

(A) whether the petitioner is an alien,

(B) whether the petitioner was ordered removed under such section, and

(C) whether the petitioner can prove by a preponderance of the evidence that the petitioner is an alien lawfully admitted for permanent residence, has been admitted as a refugee under section 1157 of this title, or has been granted asylum under section 1158 of this title, such status not having been terminated, and is entitled to such further inquiry as prescribed by the Attorney General pursuant to section 1225(b)(1)(C) of this title.

8 U.S.C. § 1252(e)(2). None of these circumscribed exceptions apply to Trinidad-Suarez. It is undisputed he is an alien. Shortly after he first entered the United States in May 2021, he was processed for expedited removal. *See* Exhibit A to Doc. 4 at 1-6. He cannot prove any lawful admission, grant of asylum, or any other statutory grounds for the Court’s review. In short, there is nothing within the Court’s limited power to review.

Crucially, courts cannot review ICE’s determinations. For example, “In determining whether an alien has been ordered removed under section 1225(b)(1) of

this title, the court’s inquiry shall be limited to whether such an order in fact was issued and whether it relates to the petitioner.” *Id.* § 1252(e)(5). Congress continued, “There shall be no review of whether the alien is actually inadmissible or entitled to any relief from removal.” *Id.* Here, Trinidad-Suarez is subject to a final expedited removal order. Exhibit A to Doc. 4 at 7. Even if the Court could determine Trinidad-Suarez is entitled to relief from removal, the Court lacks jurisdiction to do so. 8 U.S.C. § 1252(e)(5). *See also Javier Gonzalez v. U.S. Att’y General*, 844 F. App’x 129, 133 (11th Cir. 2021) (concluding the court lacked jurisdiction to review the validity of an expedited order of removal).

Respondents recognize that Judge Chappell has held that a district court may review challenges to expedited removal proceedings. *See Gonzalez Carmona v. Warden*, No. 2:25-cv-1128-SPC-DNF, 2025 WL 3649577 (M.D. Fla. Dec. 17, 2025); *Alfonso Perez v. Warden*, No. 2:25-cv-947-SPC-DNF, 2025 WL 3466956 (M.D. Fla. Dec. 3, 2025); *Cuevas-Rodriguez v. Warden*, 2:25-cv-1201-SPC-NPM, Doc. 9 (M.D. Fla. Jan. 8, 2026); and *Rosabal Blanco*, 2:26-cv-00051-SPC-DNF, Doc. 9 (M.D. Fla. Jan. 28, 2026). Respectfully, Respondents disagree. As *DHS v. Thuraissigiam*, 591 U.S. 103, 119 (2020) explained, the Suspension Clause has only been assumed to protect a highly circumscribed and limited right to habeas corpus—i.e., “the writ as it existed in 1789, when the Constitution was adopted.” *Id.* at 116 (cleaned up). But habeas was not “understood at the time of the adoption of the Constitution to permit a petitioner to

claim the right to enter or remain in a country or to obtain administrative review potentially leading to that result.” *Id.* at 117. “The writ simply provided a means of contesting the lawfulness of restraint and securing release.” *Id.*

The Southern District of Florida has similarly concluded,

[A]lthough the suspension of the right to seek habeas review of the legality of detention may implicate the Suspension Clause, that is not what Petitioner seeks review of by way of his habeas Petition. He seeks review of the Respondents’ determination that he qualifies for expedited removal because, if he does, he is being legally detained. But, based on the Court’s opinion in *Thuraissigiam*, the suspension of the ability to seek habeas review of the Respondents’ determination does not violate the Suspension Clause. Therefore, as applied to Petitioner’s circumstances and the issues he raises in his habeas Petition, Section 1252(e) does not violate the Suspension Clause.

Chaviano v. Bondi, No. 25-22451-CIV-DAMIAN, 2025 WL 1744349, at *7 (S.D. Fla. June 23, 2025). As *Chaviano* explains, Congress did not suspend habeas corpus through the INA jurisdiction-stripping provisions. Rather, it withheld judicial review over certain discretionary decisions—consistent with the deference the INA affords the Executive in the context of immigration enforcement. *See also Zamirov v. Olson*, No. 25 CV 6540, 2025 WL 2618030, at *2-4 (N.D. Ill. Aug. 29, 2025) (rejecting challenge to expedited removal designation after DHS dismissed full removal proceedings because § 1252(a) and (e) plainly strip jurisdiction); *S.W. v. Noem*, No. 25-cv-9264 (PKC), 2025 WL 3754067, at *5-8 (S.D.N.Y. Dec. 29, 2025) (concluding federal courts have no

jurisdiction to review claims where the claim requires review of whether petitioner was eligible for expedited removal due to factors like previous parole).

CONCLUSION

Trinidad-Suarez is no longer in ICE custody, making his habeas petition moot. And this Court does not have jurisdiction to consider Trinidad-Suarez's challenges to the validity of his final expedited removal order. Thus, the court should deny Trinidad-Suarez's emergency motion, and dismiss his habeas petition.

DATED this 14th day of May, 2026.

Respectfully submitted,

GREGORY W. KEHOE
United States Attorney

By: /s/Carolyn B. Tapie
Carolyn B. Tapie
Assistant United States Attorney
USA No. 190
400 North Tampa Street, Suite 3200
Tampa, Florida 33602
Telephone: (813) 274-6000
Facsimile: (813) 274-6198
Email: Carolyn.B.Tapie@usdoj.gov
Lead Counsel for Federal Respondents