

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

ROBERTO TOLENTINO-PONCE,

Petitioner,

Case No. 3:26-cv-1029-WWB-MCR

v.

WARDEN, FLORIDA BAKER
CORRECTIONAL INSTITUTION, et al.,

Respondents.

**FEDERAL RESPONDENTS' RESPONSE
TO PETITION FOR WRIT OF HABEAS CORPUS**

Petitioner Roberto Tolentino-Ponce challenges his detention by the United States Immigration and Customs Enforcement ("ICE"), arguing he is entitled to a bond hearing under 8 U.S.C. § 1226(a). (Doc. 1). The undersigned recognizes that Petitioner is entitled to an individualized bond hearing based on binding Eleventh Circuit precedent. See *Hernandez Alvarez v. Warden, Fed. Det. Ctr. Miami*, Case No. 25-14065, 2026 WL 1243395 (11th Cir. May 6, 2026). Because Petitioner received a bond hearing on May 26, 2026, and was, in fact, granted bond, the Petition should be denied as moot. (Exhibit 1, Immigration Judge Order).

BACKGROUND

Petitioner alleges that he is a citizen and national of Mexico. (Doc. 1 ¶ 12). He alleges that he last entered the United States without inspection on or about March 2003. (See *id.*). On May 26, 2026, Petitioner received a bond redetermination hearing, where

the Immigration Judge granted his release from custody under a bond of \$12,000. (Ex. 1 at 3).

DISCUSSION

As the Eleventh Circuit ruled in *Hernandez Alvarez*, the Executive Branch lacks the authority to detain every unadmitted alien present in the country “without the possibility of bond.” *Hernandez Alvarez*, 2026 WL 1243395, at *21 (emphasis added). Here, Petitioner sought a writ of habeas corpus requiring that he be released, or in the alternative, provided a bond hearing under § 1226(a). (See Doc. 1 at 12). As Petitioner has been granted a bond hearing—which was held May 26, 2026—Petitioner’s requested relief is now moot. (Ex. 1 at 3).

The United States Constitution limits this Court’s jurisdiction to the adjudication of actual cases and controversies. U.S. Const. art. III, § 2, cl. 1. The doctrine of mootness is derived from this limitation. *Adler v. Duval Cnty. Sch. Bd.*, 112 F.3d 1475, 1477 (11th Cir. 1997). The U.S. Supreme Court has characterized mootness as “the doctrine of standing set in a time frame: [t]he requisite personal interest that must exist at the commencement of the litigation (standing) must continue throughout its existence (mootness).” *Arizonans for Official Eng. v. Arizona*, 520 U.S. 43, 68 n.22 (1997). As such, if something occurs during litigation that makes it impossible for the court to provide some sort of meaningful relief, there is no case or controversy and the court must dismiss the claim as moot. See *Church of Scientology v. United States*, 506 U.S. 9, 12 (1992). In other words, where the question sought to be adjudicated has been mooted by developments subsequent to the filing of the complaint, no justiciable controversy is presented. *Flast v. Cohen*, 392 U.S. 83, 95 (1968); see also *Bennett v. Jefferson County*,

899 F.3d 1240, 1245 (11th Cir. 2018) (citing *Arizonans for Official Eng.*, 520 U.S. at 68); *Al Najjar v. Ashcroft*, 273 F.3d 1330, 1336 (11th Cir. 2001). As the Eleventh Circuit previously summarized, “[w]hen we consider our jurisdiction for mootness, we look at the events at the present time, not at the time the complaint was filed or when the federal order on review was issued.” *Dow Jones & Co. v. Kaye*, 256 F.3d 1251, 1254 (11th Cir. 2001).

The Petition asks that the Court require Federal Respondents to release Petitioner unless they provide a bond hearing under 8 U.S.C. 1226(a). (See Doc. 1 at 12). Because Petitioner had a bond hearing where the Immigration Judge ordered that he could be released from custody under a bond of \$12,000, there is no live case or controversy over which the Court may continue to exercise jurisdiction concerning Petitioner’s request for bond. (Ex. 1 at 3). Thus, this Petition should be denied as moot.

CONCLUSION

Federal Respondents respectfully request that Petitioner Roberto Tolentino-Ponce’s Petition be denied as moot and dismissed.

Dated: May 28, 2026

Respectfully Submitted,

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TABLE OF EXHIBITS

Ex. No.	Date	Title and Description
1	5/26/2026	Order of Immigration Judge on Custody Redetermination Proceedings

A.I. CERTIFICATION

The undersigned hereby certifies that no generative AI was used in the drafting and preparation of the foregoing filing.

/s/ Avery A. Holloman
AVERY A. HOLLOMAN
Assistant U.S. Attorney