

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

YULIESKY COLINA MENA,

Petitioner,

Case No. 2:26-cv-1712-SPC-NPM

v.

U.S. ATTORNEY GENERAL, et al.,

Respondents.

FEDERAL RESPONDENTS' OPPOSITION
TO PETITION FOR WRIT OF HABEAS CORPUS

Petitioner Yuliesky Colina Mena challenges his continued detention by U.S. Immigration and Customs Enforcement ("ICE"). Mena is no longer in ICE custody, as he was removed on May 21, 2026. Mena's petition should therefore be denied as moot.

FACTUAL BACKGROUND

Mena is a national and citizen of Cuba. [Exhibit A]. Petitioner was issued a Notice of Expedited Removal on December 1, 2025. [*Id.*].

On May 15, 2026, Mena filed a petition for writ of habeas corpus in the arguing his detention violates the Due Process Clause of the Fifth Amendment and the Immigration and Nationality Act. [Doc. 1]. Petitioner was removed from the United States on May 21, 2026. *See* Exhibit A.

ARGUMENT

Mena challenges his continued immigration detention. Because Mena 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, Mena challenges his continued detention in ICE custody. Because Mena is no longer in ICE custody, his petition should be denied as moot unless an exception to the mootness doctrine applies. *See Fregis*, 2014 WL 54839, at * 1. None does. Mena 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, Mena has not provided any reason to believe that he will be taken back into custody, 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 Mena 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 Mena’s habeas petition should be dismissed. *See Fregis*, 2014 WL 54839, at *2-3.

CONCLUSION

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

DATED this 28th day of May, 2026.

Respectfully submitted,

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