

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION

OTAILSON DOMINGES-DOS  
SANTOS,

Petitioner,

Case No.: 2:26-cv-01722-JES-KRH

v.

ACTING SECRETARY  
MARKWAYNE MULLIN, et al.

Respondents.

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**RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS**

Federal Respondents hereby notify the Court that Petitioner was removed from the United States on June 3, 2026. A copy of the executed Form I-205, Warrant of Removal/Deportation, is attached as Exhibit A. In light of Petitioner's removal. Respondents suggest that the Petition be denied as moot.

Article III of the Constitution limits the jurisdiction of the federal courts to the consideration of "Cases" and "Controversies." U.S. Const. art. III, § 2. In turn, the "case or controversy" constraint imposes on federal courts a "dual limitation" known as "justiciability." *United States v. Florida Azalea Specialists*, 19 F.3d 620, 621 (11th Cir. 1994). The doctrine of justiciability prevents courts from encroaching on the powers of the elected branches of government and guarantees that courts consider only matters presented in an actual adversarial context. *See Socialist Workers Party v. Leahy*, 145 F.3d 1240, 1244 (11th Cir. 1998).

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 Cnty. Sch. Bd.*, 112 F.3d 1475, 1477 (11th Cir. 1997). “[A] case is moot when the issues presented are no longer ‘live’ or the parties lack a legally cognizable interest in the outcome.” *Powell v. McCormack*, 395 U.S. 486, 496 (1969). As the Eleventh Circuit has explained, “[p]ut another way, ‘a case is moot when it no longer presents a live controversy with respect to which the court can give meaningful relief.’” *Florida Ass’n of Rehab. Facilities, Inc. v. Florida Dep’t of Health and Rehab. Servs.*, 225 F.3d 1208, 1216-17 (11th Cir. 2000) (quoting *Ethredge v. Hail*, 996 F.2d 1173, 1175 (11th Cir. 1993)).

If events that occur subsequent to the filing of a lawsuit deprive the court of the ability to give the plaintiff/petitioner meaningful relief, then the case is moot and must be dismissed. *See, e.g., Hall v. Beals*, 396 U.S. 45, 48 (1969). Indeed, dismissal is required because mootness is jurisdictional. *See Florida Ass’n of Rehab. Facilities*, 225 F.3d at 1227 n.14 (citing *North Carolina v. Rice*, 404 U.S. 244, 246 (1971) (“The question of mootness is . . . one which a federal court must resolve before it assumes jurisdiction.”)). “Any decision on the merits of a moot case or issue would be an impermissible advisory opinion.” *Id.* at 1217 (citing *Hall*, 396 U.S. at 48); *see also Spencer v. Kemna*, 523 U.S. 1, 18 (1998) (“But mootness, however it may have come about, simply deprives us of our power to act; there is nothing for us to remedy, even if we were disposed to do so. We are not in the business of pronouncing that past actions which have no demonstrable continuing effect were right or wrong.”).

“As a general rule, a habeas petition presents a live case or controversy only when a petitioner is in custody.” *Salmeron-Salmeron v. Spivey*, 926 F.3d 1283, 1289 (11th Cir. 2019); *see also* 28 U.S.C. § 2241(c)(3). The Supreme Court has held that the “in custody” requirement of 28 U.S.C. § 2241 is satisfied if restrictions have been placed on a petitioner’s freedom of action or movement. *See Jones v. Cunningham*, 371 U.S. 236, 243 (1963). This means that once a petitioner’s custodial sentence has expired, “some concrete and continuing injury . . . some ‘collateral consequence’ . . . must exist if the suit is to be maintained.” *Spencer*, 523 U.S. at 7; *see also Salmeron-Salmeron*, 926 F.3d at 1290 (extending the “collateral consequences” doctrine to habeas petitions brought in the immigration context).<sup>1</sup>

Here, Petitioner challenged his post-final order detention by immigration authorities on the basis that there was no likelihood of removal in the reasonably foreseeable future and his detention no longer bore a reasonable relationship to its purported purpose. *See* ECF No. 1. Because Petitioner has been removed from the

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<sup>1</sup> Although there is an exception to the mootness doctrine when the action being challenged by the lawsuit is capable of being repeated and evading review, this exception is “narrow,” *Dow Jones & Co. v. Kaye*, 256 F.3d 1251, 1256 (11th Cir. 2001), and applies only in “exceptional situations.” *Id.* (quoting *City of Los Angeles v. Lyons*, 461 U.S. 95, 109 (1983)). In particular, the exception can be invoked only when “(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.” *Sierra Club v. Martin*, 110 F.3d 1551, 1554 (11th Cir. 1997). “The 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.” *Al Najjar v. Ashcroft*, 273 F.3d 1330, 1336 (11th Cir. 2001).

United States he is no longer in custody, and because the habeas petition did not seek to redress any collateral consequences arising from his removal, the habeas petition—which sought a court order directing Respondents to release Petitioner from custody pending his removal—is moot.

Dated: June 8, 2026

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on June 8, 2026, I electronically filed the foregoing document with the Clerk of the Court by using the CM/ECF system, which will send notice of filing and a downloadable copy of the filed document to registered counsel of record.

/s/ Amanda B. Saylor  
AMANDA B. SAYLOR  
Assistant United States Attorney