UNITED STATES DISTRIC COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

W.M.R.P., A MINOR, BY AND THROUGH HIS NEXT FRIEND, [redacted] Petitioner,	§	
v.	§	Civil Action No. 2:26-CV-24
KRISTI NOEM, et al., Respondents.	§	

RESPONDENTS' MOTION TO DISMISS PETITION FOR WRIT OF HABEAS CORPUS AS MOOT

Pursuant to Federal Rule of Civil Procedure 12(b)(1),[1] Respondents move to dismiss the above-captioned case for mootness. Petitioner has been released from detention through the reunification process with his brother; therefore, the habeas petition should be dismissed as moot.

PROCEDURAL HISTORY

On January 16, 2026, Petitioner filed his Petition for Writ of Habeas Corpus Under 28 U.S.C. § 2241. Docket Entry ("DE") 1. Petitioner named Kristi Noem, Secretary of the U.S. Department of Homeland Security, Robert F. Kennedy, JR, Secretary of Health and Human Services, Todd Lyons, Acting Director of the US. Immigration and Customs Enforcement, Angie Salazar, Acting Director of Office of Refugee Resettlement, Jessica Fuentes Vela, Federal Field Specialist, Office of Refugee Resettlement, Jesus Yerena, Senior Program Director, Upbring Bokencamp Shelter, in their official capacities, as well as the U.S. Department of Homeland Security, U.S. Immigration and Customs Enforcement, U.S. Department of Health and Human

[1] Respondents have filed this Rule 12 motion in lieu of their answer and preserve all affirmative defenses for inclusion in their answer in the event that the instant motion is denied.

Services, and Office of Refugee Resettlement. The Federal Respondents, by and through the undersigned attorney, hereby file this Motion to Dismiss Petitioner's Writ of Habeas Corpus and request that the Court dismiss this case in accordance with Federal Rules of Civil Procedure 12(b)(1).

BACKGROUND

Petitioner is a native and citizen of Guatemala who entered the United States as a minor, and was subsequently detained in the care of the Office of Refugee Resettlement (ORR) at the Upbring Shelter in Corpus Christi, Texas. DE 1 at ¶ 2-3. Petitioner's brother sought to have him released through the reunification process. *Id.* at ¶ 3. After being unsuccessful in the reunification process, Petitioner filed a Petition for Writ of Habeas Corpus with this Court on January 16, 2026, seeking release from detention and reunification with his brother. *Id.* On January 27, 2026, Petitioner was released from detention, and reunited with his brother. Ex.1; ORR Discharge Notification.

LEGAL STANDARD

Federal Rule of Civil Procedure 12(b)(1) governs challenges to a court's subject matter jurisdiction. "A case is properly dismissed for lack of subject matter jurisdiction when the court lacks the statutory or constitutional power to adjudicate the case." *Home Builders Ass'n of Miss., Inc. v. City of Madison*, 143 F.3d 1006, 1010 (5th Cir. 1998). In ruling on a motion to dismiss pursuant to Rule 12(b)(1), the court may consider: "(1) the complaint alone; (2) the complaint supplemented by undisputed facts in the record; or (3) the complaint supplemented by undisputed facts plus the court's resolution of disputed facts." *Clark v. Tarrant County*, 798 F.2d 736, 741 (5th Cir.1986) (*citing Williamson v. Tucker*, 645 F.2d 404, 413 (5th Cir.1981)). However, all factual allegations of the complaint must be accepted as true. *Den Norske Stats Oljeselskap As v. HeereMac Yof*, 241 F.3d 420, 424 (5th Cir. 2002).

Federal courts lack jurisdiction to decide moot cases because their constitutional authority extends only to actual cases or controversies. Mootness is a question of subject matter jurisdiction, *Alwan v. Ashcroft*, 388 F.3d 507, 511 (5th Cir. 2004), and if a question of mootness arises, the court must resolve it before it can assume jurisdiction, *North Carolina v. Rice*, 404 U.S. 244, 246, 92 S.Ct. 402, 30 L.Ed.2d 413 (1971). A case becomes moot "when the issues presented are no longer 'live' or the parties lack a legally cognizable interest in the outcome." *United States Parole Comm'n v. Geraghty*, 445 U.S. 388, 395, 100 S.Ct. 1202, 63 L.Ed.2d 479 (1980). "If a dispute has been resolved or if it has evanesced because of changed circumstances ... it is considered moot." *American Med. Ass'n v. Bowen*, 857 F.2d 267, 270 (5th Cir.1988).

ARGUMENT

Petitioner has been released through the reunification process with his brother, thus rendering this Petition moot. Furthermore, the Petitioner does not challenge any future detention, and even if he had, the possibility of future detention is too speculative to give rise to a case or controversy. Rather, if future detention does occur, Petitioner may file another habeas corpus petition at that future time. *See Cruz v. Cruz*, 140 F.3d 1037 (5th Cir. March 18, 1998) (unpublished) (relief from future immigration custody does not present a live case or controversy), *citing Bailey v. Sutherland*, 821 F.2d 277 (5th Cir. 1987)); *Lewin v. Thompson*, 996 F.2d 305 (5th Cir. June 21, 1993) (unpublished), and *United States ex rel. Marcello v. District Director of INS*, 634 F.2d 964 (5th Cir. 1981)). The Court lacks jurisdiction because Petitioner has been released, making his claim moot. Ex. 5. Therefore, the Petition for Writ of Habeas Corpus should be dismissed under Rule 12(b)(1).

CONCLUSION

For the above reasons and analysis, Respondents pray this Honorable Court dismiss Petitioner's Writs of Habeas Corpus and grant Respondents' Motion to Dismiss due to lack of subject matter jurisdiction as the action is now moot.

Dated: January 29, 2026

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on January 27, 2026, a copy of the foregoing Respondents' Response to the Court was served on opposing counsel pursuant to the Federal Rules of Civil Procedure via the Court's CM/ECF.

/s/ Christopher Bastian
CHRISTOPHER BASTIAN
Attorney for Respondents