

United States District Court
Eastern District of Michigan

Tiburcio RAMOS HERNANDEZ,

Petitioner,

Civil No. 26-10591

v.

Kevin RAYCRAFT, Director of
Enforcement and Removal Operations,
Detroit Field Office, U.S. Immigration and
Customs Enforcement, et al.

Honorable Mark A. Goldsmith
Mag. Judge Patricia T. Morris

Respondents.

Respondents' Supplemental Brief Regarding *Lopez Campos*

Issue Presented

Does the Sixth Circuit's decision in *Lopez Campos* render this case moot when it resolved the same issue petitioner raised in this case and the Sixth Circuit's decision is binding on the agency and the immigration court so respondents no longer dispute that petitioner is entitled to a bond hearing under 8 U.S.C. § 1226?

Table of Contents

Table of Authorities	iii
Introduction	1
Background	1
Argument.....	3
Conclusion	5
Certificate of Service	6

Table of Authorities

Cases

<i>Already, LLC v. Nike, Inc.</i> , 568 U.S. 85 (2013).....	3, 4, 5
<i>Lopez Campos v. Raycraft</i> , —F.4th—, 2026 WL 1283891 (6th Cir. May 11, 2026)	2, 3, 4, 5
<i>Matter of Anselmo</i> , 20 I. & N. Dec. 25 (BIA 1989)	2, 3
<i>Matter of Yajure Hurtado</i> , 29 I. & N. 216 (BIA 2025)	1, 2, 3
<i>Weinstein v. Bradford</i> , 423 U.S. 147 (1975)	4

Statutes

8 U.S.C. § 1225(b)(2).....	1, 2
8 U.S.C. § 1226	1, 2, 3, 4

Other Authorities

EOIR Manual, Part II, 8.3(d)	3
------------------------------------	---

Regulations

8 C.F.R. § 1236.1(d)(1).....	3
------------------------------	---

Introduction

In this case, a noncitizen challenged his detention because immigration officials detained him under a statute (8 U.S.C. § 1225(b)(2)) that did not allow him to seek release on bond during his administrative removal proceedings. After petitioner filed this suit, the Sixth Circuit issued a precedential decision holding that noncitizens like petitioner must be detained under a statute that allows them to seek release on bond (8 U.S.C. § 1226). Because the Sixth Circuit's decision is binding on the agency, respondents do not dispute that petitioner is now detained under 8 U.S.C. § 1226, and they do not dispute that he can seek release on bond under that statute. Accordingly, this case no longer presents an Article III case or controversy, and it should be dismissed for lack of subject matter jurisdiction.

Background

Petitioner is a noncitizen who entered the United States unlawfully without being inspected or admitted by an immigration official. (NTA, ECF No. 4-2, PageID.48). In January 2026, immigration officials encountered petitioner and arrested him because he had no lawful immigration status at that time. (*See* Pet., ECF No. 1, PageID.2). On the date of his arrest, petitioner's detention was governed by the Board of Immigration Appeals decision in *Matter of Yajure Hurtado*, 29 I. & N. 216 (BIA 2025), which bound ICE and the immigration courts and dictated that petitioner be detained under 8 U.S.C. § 1225(b)(2), a statute that rendered him

statutorily ineligible for release on bond during his administrative removal proceedings. *See id.* at 223–25.

In February 2026, petitioner filed this suit challenging his detention by arguing that he was not appropriately detained under 8 U.S.C. § 1225(b)(2) and instead should be detained under 8 U.S.C. § 1226, which would allow him to seek release on bond from an immigration judge during his administrative removal proceedings. (*See* Pet., ECF No. 1).

On May 11, 2026, the Sixth Circuit issued a published decision addressing the scope of § 1225(b)(2). *See Lopez Campos v. Raycraft*, —F.4th—, 2026 WL 1283891 (6th Cir. May 11, 2026). In *Lopez Campos*, the Sixth Circuit found that noncitizens who entered the United States unlawfully were not properly detained under § 1225(b)(2) if they had been present in the United States for several years before they were arrested by immigration officials. *See id.* Instead, the Sixth Circuit held that those noncitizens must be detained under 8 U.S.C. § 1226 and were eligible to seek release on bond from an immigration judge during their administrative removal proceedings. *See id.*

The Sixth Circuit’s decision in *Lopez Campos* is binding on ICE and the immigration courts in the Sixth Circuit. *See Mirditaj v. Ashcroft*, 116 F. App’x 733, 735 (6th Cir. 2004) (“[t]he BIA is required to follow court of appeals precedent within the geographical confines of the relevant circuit”); *Matter of Anselmo*, 20 I.

& N. Dec. 25, 31 (BIA 1989). Therefore, it displaces the Board of Immigration Appeals decision in *Yajure Hurtado* in this circuit and the agency and the immigration court must follow *Lopez Campos*. *See id.*

Petitioner may obtain a bond hearing by requesting it from the immigration court and, if he makes such a request, the immigration court will promptly schedule a bond hearing and determine his eligibility for release under 8 U.S.C. § 1226. *See id.*; 8 C.F.R. § 1236.1(d)(1); EOIR Manual, Part II, 8.3(d). Petitioner’s counsel has been advised of petitioner’s right to seek a bond hearing but has not yet requested a bond hearing from the immigration court.

Argument

There is no longer a dispute about petitioner’s legal rights, therefore, this case is moot and it should be dismissed for lack of subject matter jurisdiction.

Article III grants federal courts jurisdiction to hear disputes about cases or controversies. *See Already, LLC v. Nike, Inc.*, 568 U.S. 85, 90–91 (2013). “[A]n actual controversy must exist not only at the time the complaint is filed, but through all stages of the litigation.” *Id.* (quotations omitted). “A case becomes moot—and therefore no longer a ‘Case’ or ‘Controversy’ for purposes of Article III—when the issues presented are no longer ‘live’ or the parties lack a legally cognizable interest in the outcome.” *Id.*

Here, the dispute is moot. In this suit, petitioner argued that he should be detained under § 1226. There is no dispute that petitioner falls within the category of noncitizens addressed in *Lopez Campos*, which held that noncitizens like petitioner must be detained under § 1226. The Sixth Circuit's decision in *Lopez Campos* is binding on ICE and the immigration court. *See Mirditaj v. Ashcroft*, 116 F. App'x at 735. Therefore, respondents do not dispute that petitioner is entitled to seek release on bond under § 1226. And, to obtain a bond hearing under § 1226 from the immigration court, petitioner simply needs to schedule it. Accordingly, there is no longer any dispute about petitioner's legal rights, so this case no longer presents an Article III case or controversy.

No exceptions to mootness apply here. Courts have acknowledged that a respondent cannot render a case moot by voluntarily ceasing the offending conduct, if the respondent could also voluntarily repeat the offending conduct once a suit is dismissed. *See Already, LLC*, 568 U.S. at 91–92. However, the voluntary cessation doctrine does not apply here because respondents' conduct is governed by the Sixth Circuit's decision in *Lopez Campos* and cannot voluntarily be resumed.

Similarly, courts have recognized an exception to the mootness doctrine if the duration of the challenged action was too short to be fully litigated. *See Weinstein v. Bradford*, 423 U.S. 147, 148–49 (1975). However, that exception does not apply here either because respondents' conduct was fully litigated through an appeal to the

Sixth Circuit, which resulted in an opinion that has settled the law on this issue in this circuit.

Finally, petitioner cannot argue that this case is not moot because his detention prior to the *Lopez Campos* decision was unlawful. “No matter how vehemently the parties continue to dispute the lawfulness of the conduct that precipitated the lawsuit, the case is moot if the dispute is no longer embedded in any actual controversy about the plaintiffs’ particular legal rights.” *Already, LLC*, 568 U.S. at 90–91.

Conclusion

The Court should dismiss this case for lack of subject matter jurisdiction because it no longer presents an active case or controversy.

Respectfully submitted,

Jerome F. Gorgon Jr.
United States Attorney

/s/ Zak Toomey
Zak Toomey (MO61618)
Assistant U.S. Attorney
211 W. Fort Street, Suite 2001
Detroit, Michigan 48226
(313) 226-9617
zak.toomey@usdoj.gov

Dated: May 21, 2026

Certificate of Service

I hereby certify that on May 21, 2026, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system, which will send notification of such filing to all parties of record.

s/ Zak Toomey

Zak Toomey (MO61618)

Assistant U.S. Attorney