

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No.: 1:26-cv-22685-BB

LIAT MESUDI AVITAL,

Petitioner,

v.

WARDEN, Broward Transitional
Center, *et al.*,

Respondents.

_____ /

**RETURN TO HABEAS PETITION AND
INCORPORATED MOTION TO DISMISS AS MOOT**

Respondents, through the undersigned Assistant United States Attorney and per the Court's order to show cause [DE 4], respond to the Petition for Writ of Habeas Corpus [DE 1] (the Petition). They advise that this habeas matter has become moot and that the Court therefore lacks Article III subject-matter jurisdiction. Respondents further state:

Background

1. Petitioner Liat Mesudi Avital (Petitioner) challenges her detention as unconstitutional or, alternatively, that her detention is governed by 8 U.S.C. § 1226(a) and not § 1225(b). Petition at ¶¶ 46-50. In other words, the Petition presents the dispositive legal question that this Court has previously addressed. *See Huerta-Lopez v. Field Office Director*, No. 26-cv-20165, DE 8 (S.D. Fla. March 24, 2026) (Bloom, J.) (granting habeas petition in part upon finding an substantially similarly-situated petitioner's detention was governed by Section 1226 and not Section 1225(b)(2)).

2. As relief, Petitioner seeks immediate release from immigration detention, or an order directing Respondents to present Petitioner for a bond hearing under Section 1226(a).

DE 1 at 17-18.

3. On April 20, the Court ordered Respondents to show cause why the Petition should not be granted. DE 4. The Court also ordered Respondents to address at least two ancillary claims raised in Petitioner's contemporaneous emergency motion for TRO [DE 3].

4. As set forth below, this case has become moot and the Court therefore lacks Article III subject-matter jurisdiction. Accordingly, all ancillary issues—in particular “Request 3” and “Request 4” as defined in the Court's show cause order—have also been rendered moot.

Argument

This habeas matter is moot, rendering the Court without subject-matter jurisdiction. Petitioner was granted discretionary parole and was thereafter released from immigration detention at the Broward Transitional Center. She is therefore no longer in Respondents' custody. *See Exhibit A* (detention history evidencing Petitioner's release from custody on April 20, 2026); *Exhibit B* (parole document).

Because Petitioner is no longer in ICE custody, this habeas matter has been rendered moot. *See e.g. Soliman v. INS*, 296 F.3d 1237 (11th Cir. 2002) (alien's removal from the United States pursuant to order of removal rendered that alien's habeas petition challenging his continued immigration custody of the alien moot). For a federal court to have subject matter jurisdiction over a habeas proceeding, the petitioner must be “in custody in violation of the Constitution or laws or treaties of the United States ...” 28 U.S.C. § 2241(c)(3); *accord Maleng v. Cook*, 490 U.S. 488, 490–91 (1989). Where, as here, an alien detainee files a section 2241 petition requesting release, the case becomes moot and the court loses jurisdiction once the alien is released from custody. *See Djadju v. Vega*, 32 F.4th 1102, 1107 (11th Cir. 2022).

The case-or-controversy requirement of Article III, 2 of the United States Constitution applies through all stages of federal litigation. *Spencer v. Kemna*, 523 U.S. 1, 7 (1998). For a matter to be justiciable, a petitioner must have suffered, or been threatened with, an actual injury traceable to the respondent. And, it must be likely that a favorable judicial decision would redress that injury. *Lewis v. Continental Bank Corp.*, 494 U.S. 472, 477 (1990). In light of Petitioner's parole and release from detention, there remains no injury for the Court to redress and no meaningful relief the Court could provide in habeas. Where, as here, there is nothing for the Court to remedy, a case is moot. *Spencer*, 523 U.S. at 17; *Djadju*, 32 F.4th at 1107 ("Djadju has asked the federal courts for only one form of relief: to be immediately released from custody as a result of his 'ongoing prolonged detention.' Since Djadju already has been released from custody, his prayer for relief has been satisfied.").

Similarly, in *Soliman*, the Eleventh Circuit held that an alien's removal from the United States pursuant to a final order of removal rendered moot that alien's habeas corpus petition challenging his immigration custody. The Court held that since the alien was no longer in custody, "[q]uite simply, there is nothing for us to remedy, even if we were disposed to do so." *Soliman*, 296 F.3d at 1243 (internal citation and quotation omitted).

And no exception to the mootness doctrine is implicated here because there is no indication Petitioner will be returned to ICE custody in the near future. *See Djadju*, 32 F.4th. at 1109 ("[T]here's no reasonable basis for us to believe that Djadju will be re-detained unlawfully upon termination of this suit"); *Al Najjar v. Ashcroft*, 273 F.3d 1330, 1336 (11th Cir. 2001) ("The remote possibility that an event might recur is not enough to overcome mootness."); *see also* Exhibit B.

Where, as here, the issue that Petitioner complains of (unconstitutional and prolonged detention) has become moot, the Court lacks habeas jurisdiction to address the matter. *See generally Soliman*, 296 F.3d at 1243.

* * *

In light of Petitioner's release from immigration detention, Respondents respectfully request that the Court dismiss the Petition as moot, relieve Respondents of any obligation to address the ancillary matters of the TRO motion, which are also moot, and enter a final order closing the above-styled case.

Respectfully submitted,

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