IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

DARWIN JOSUE GUTIERREZ PORTILLO,	:	
Petitioner,	:	
	:	**Case No. 4:26-CV-655-CDL-ASL**
v.	:	**28 U.S.C. § 2241**
WARDEN, STEWART DETENTION CENTER,	:	
Respondent.	:	

RESPONDENT'S SECOND MOTION TO DISMISS

On August 7, 2026, the Court ordered Respondents to provide a status report with updated information regarding Petitioner's current location within 14 days of the Court's Order. ECF No. 8. In lieu of a status report, Respondents file this motion to dismiss. Petitioner voluntarily departed from the United States on May 18, 2026, and the Petition should consequently be dismissed as moot.

ARGUMENT

On May 18, 2026, Petitioner voluntarily departed from the Untied States. *See* Ex A, Form I-210, Voluntary Departure and Verification of Departure. Because Petitioner is no longer in Respondent's custody, the Court lacks subject-matter jurisdiction over his claims. Accordingly, the Court should dismiss the Petition as moot.

The case-or-controversy requirement of Article III, section 2 of the United States Constitution subsists through all stages of federal judicial proceedings. *See Spencer v. Kemna*, 523 U.S. 1, 7 (1998). A petitioner "must have suffered, or be threatened with, an actual injury traceable to the defendant and likely to be redressed by a favorable judicial decision." *Lewis v.*

Cont'l Bank Corp., 494 U.S. 472, 477 (1990). "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." *Soliman v. United States*, 296 F.3d 1237, 1242 (11th Cir. 2002) (internal quotation marks and citation omitted). "Put another way, a case is moot when it no longer presents a live controversy with respect to which the court can grant meaningful relief." *Fla. Ass'n of Rehab. Facilities, Inc. v. Fla. Dep't of Health & Rehab. Servs.*, 225 F.3d 1208, 1217 (11th Cir. 2000) (internal quotation mark and citation 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." *Al Najjar v. Ashcroft*, 273 F.3d 1330, 1336 (11th Cir. 2001). "Indeed, dismissal is required because mootness is jurisdictional." *Id.*; *see also De La Teja v. United States*, 321 F.3d 1357, 1362 (11th Cir. 2003). Once a petitioner has been removed from the United States, the dispute regarding his detention is rendered moot and must be dismissed. *See Soliman*, 296 F.3d at 1243.

Here, Petitioner requested a bond. Pet. at 2, ECF No. 1. Petitioner voluntarily departed the United States on May 18, 2026, and is no longer in Respondent's custody. *See* Ex. A. Because Petitioner is not in Respondent's custody, the Court can no longer give Petitioner any meaningful relief regarding his detention. Accordingly, the Petition is moot and should be dismissed.

CONCLUSION

For the foregoing reasons, Respondent requests that Petitioner's application for habeas relief be dismissed.

Respectfully submitted this 21st day of August, 2026.

WILLIAM R. KEYES
UNITED STATES ATTORNEY

BY: *s/ Travis D. Lynes*
TRAVIS D. LYNES
Assistant United States Attorney
Georgia Bar No. 675496
United States Attorney's Office
Middle District of Georgia
P.O. Box 1702
Macon, Georgia 31202
Telephone: (478) 621-2659
E-mail: travis.lynes@usdoj.gov

CERTIFICATE OF SERVICE

This is to certify that I have this date filed the Second Motion to Dismiss with the Clerk of the United States District Court using the CM/ECF system, which will send notification of such filing to the following:

N/A

I further certify that I have this date mailed by United States Postal Service the document and a copy of the Notice of Electronic Filing to the following non-CM/ECF participants:

Darwin Gutierrez Portillo
A# [redacted]
Stewart Detention Center
P.O. Box 248
Lumpkin, GA 31815

This 21st day of August, 2026.

BY: *s/ Travis D. Lynes*
TRAVIS D. LYNES
Assistant United States Attorney