

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

H.E.,	:	
	:	
Petitioner,	:	
	:	
v.	:	CASE NO. 4:23-CV-50-CDL-MSH
	:	28 U.S.C. § 2241
Warden, STEWART DETENTION	:	
CENTER,	:	
	:	
Respondent.	:	

RECOMMENDATION OF DISMISSAL

Pending before the Court is Respondent’s motion to dismiss Petitioner’s application for habeas corpus relief (ECF Nos. 7, 1). Respondent filed the motion on April 27, 2023, with a Verification of Removal showing that Petitioner was removed from the United States on April 19, 2023. Mot. to Dismiss Ex. A, ECF No. 7-1. Due to Petitioner’s removal, Respondent contends his petition is moot and should be dismissed. Mot. to Dismiss 1-2, ECF No. 7. The Court agrees and recommends dismissal of this case as moot.

“Article III of the Constitution limits the jurisdiction of federal courts to the consideration of ‘Cases’ and ‘Controversies.’” *Soliman v. United States*, 296 F.3d 1237, 1242 (11th Cir. 2002) (per curiam) (citing U.S. Const. art. III, § 2 and finding appeal moot where petitioner was removed from the United States). “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.” *Id.* (internal quotation marks omitted). “[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.” *Id.* (internal quotation marks omitted). “Therefore, ‘if 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.’” *Id.* (quoting *Al Najjar v. Ashcroft*, 273 F.3d 1330, 1336 (11th Cir. 2001) (per curiam)).

Here, Petitioner sought an order granting him a writ of habeas corpus and ordering his expeditious removal from the country. Pet. 7, 14, ECF No. 1. Petitioner has been removed from the country and, according to Respondent, is no longer in Respondent’s custody. Mot. to Dismiss 1-2; Mot. to Dismiss Ex. A. Because the Court can no longer give the Petitioner any meaningful relief, the case is moot and “dismissal is required because mootness is jurisdictional.” *Al Najjar*, 273 F.3d at 1336.

It is therefore recommended that Respondent’s motion to dismiss (ECF No. 7) be granted and Petitioner’s application for habeas corpus relief be dismissed. Pursuant to 28 U.S.C. § 636(b)(1), the parties may serve and file written objections to this Recommendation, or seek an extension of time to file objections, within fourteen (14) days after being served with a copy hereof. Any objection should be no longer than TWENTY (20) PAGES in length. *See* M.D. Ga. L.R. 7.4. The district judge shall make a *de novo* determination of those portions of the Recommendation to which objection is made. All other portions of the Recommendation may be reviewed for clear error.

The parties are hereby notified that, pursuant to Eleventh Circuit Rule 3-1, “[a] party failing to object to a magistrate judge’s findings or recommendations contained in a report and recommendation in accordance with the provisions of 28 U.S.C. § 636(b)(1) waives

the right to challenge on appeal the district court's order based on unobjected-to factual and legal conclusions if the party was informed of the time period for objecting and the consequences on appeal for failing to object. In the absence of a proper objection, however, the court may review on appeal for plain error if necessary in the interests of justice."

SO RECOMMENDED, this 27th day of April, 2023.

/s/ Stephen Hyles

UNITED STATES MAGISTRATE JUDGE