

1 violation of 8 U.S.C. § 1231 (as interpreted by the Supreme Court in
2 Zadvydas v. Davis, 533 U.S. 678 (2001)). (Petition at 2-9). Petitioner
3 seeks release under reasonable conditions of supervision. (Petition at
4 7-9).

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6 On February 21, 2017, Respondents filed an "Answer to Petition for
7 Writ of Habeas Corpus; Notice of Federal Respondents that Petitioner has
8 been Removed from the United States; Suggestion of Mootness" ("Motion to
9 Dismiss") (Docket Entry No. 7), which the Court construes as a Motion to
10 Dismiss (see Docket Entry No. 9). Respondents contend that the Petition
11 is now moot because on or about February 14, 2017, Petitioner was
12 removed from the United States. (See Motion to Dismiss at 1-2).

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14 On April 5, 2017, Respondent filed a "Notice of Lodging Executed
15 Warrant of Removal" (Docket Entry No. 8), attached to which as Exhibit
16 "1" was (1) a Department of Homeland Security, U.S. Immigration and
17 Customs Enforcement, Warrant of Removal/Deportation, dated February 19,
18 2016; (2) a page signed by two immigration officers reflecting that
19 Petitioner was removed from the United States on or about February 14,
20 2017; and (3) a Department of Homeland Security, U.S. Immigration and
21 Customs Enforcement, Warning to Alien Order Removed or Deported, dated
22 February 13, 2017.

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24 On April 6, 2017, the Court issued a Minute Order extending the
25 time for Petitioner to file either an Opposition to the Motion to
26 Dismiss or a Notice of Non-Opposition to the Motion to Dismiss (in the
27 event Petitioner did not oppose the Motion to Dismiss) to April 16,
28 2017. (Docket Entry No. 9).

1 To date, Petitioner has not filed an Opposition to the Motion to
2 Dismiss or a Notice of Non-Opposition to the Motion to Dismiss.

3 4 II. DISCUSSION

5 A. Dismissal is Warranted Because the Petition is Moot

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7 Article III of the Constitution "limits the jurisdiction of the
8 federal courts to live cases and controversies." Kittel v. Thomas, 620
9 F.3d 949, 951 (9th Cir. 2010) (citations omitted); see also Deakins v.
10 Monaghan, 484 U.S. 193, 199 (1988) ("Article III of the Constitution
11 limits federal courts to the adjudication of actual, ongoing
12 controversies between litigants."). An actual case or controversy
13 exists when, throughout the litigation, a petitioner continues to have
14 a "personal stake in the outcome" of the lawsuit and suffers some actual
15 injury that is likely to be "redressed by a favorable judicial
16 decision." Spencer v. Kemna, 523 U.S. 1, 7 (1998) (citation omitted).
17 When, because of events that occur after a case is initiated, a court
18 cannot give any effectual relief in favor of the petitioner, the
19 proceeding become moot. Calderon v. Moore, 518 U.S. 149, 150
20 (1996) (citation omitted); American Rivers v. National Marine Fisheries
21 Service, 126 F.3d 1118, 1123 (9th Cir. 1997) ("If an event occurs that
22 prevents the court from granting effective relief, the claim is moot and
23 must be dismissed.") (citation omitted); see also Murphy v. Hunt, 455
24 U.S. 478, 481 ("In general, a case becomes moot when the issues
25 presented are no longer live or the parties lack a legally cognizable
26 interest in the outcome.") (citations and internal quotation marks
27 omitted); Abdala v. I.N.S., 488 F.3d 1061, 1063 (9th Cir. 2007) ("To
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1 maintain an extant claim, a litigant must continue to have a personal
2 stake in the outcome of the suit throughout 'all stages of federal
3 judicial proceedings.'" (citation omitted). Since mootness is a
4 jurisdictional bar, moot petitions should be dismissed. Kittel, 620
5 F.3d at 951-52; Cole v. Oroville Union High Sch. Dist., 228 F.3d 1092,
6 1098 (9th Cir. 2000).

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8 Since Petitioner has been released from immigration custody, it
9 appears the Petition is moot. See Abdala, supra, 488 F.3d at 1065
10 ("Petitioner's release from detention . . . 'moot[ed] his challenge to
11 the legality of his extended detention."); Picrin-Peron v. Rison, 930
12 F.2d 773, 776 (9th Cir. 1991) ("By his petition for habeas corpus,
13 Picrin-Peron has requested only release from custody. Because he has
14 been released, there is no further relief we can provide.").

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16 There is an exception to the mootness doctrine for cases that are
17 "capable of repetition, yet evading review." Spencer, 523 U.S. at 17.
18 However, this exception is limited to extraordinary cases where (1) the
19 duration of the challenged action is too short to allow for full
20 litigation before it ends, and (2) there is a reasonable expectation
21 that the petitioner will be subjected to the challenged action again.
22 Id.; Alaska Ctr. For Env't v. U.S. Forest Serv., 189 F.3d 851, 854-55
23 (9th Cir. 1999); Mitchell v. Dupnik, 75 F.3d 517, 528 (9th Cir. 1996).
24 Petitioner has "the burden of showing there is a reasonable expectation
25 that [he] will once again be subjected to the challenged activity." Lee
26 v. Schmidt-Wenzel, 766 F.2d 1387, 1390 (9th Cir. 1985) (citation
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28

1 omitted). "[W]hen the chance of repetition is remote and speculative,
2 there is no jurisdiction." Lee, supra (citation omitted).

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4 Petitioner has not alleged or shown that the time spent in ICE
5 detention pending removal proceedings (or a proceeding to determine the
6 appropriateness of release under conditions of supervision) "is always
7 so short as to evade review." Spencer, 523 U.S. at 18. Moreover,
8 Petitioner has not alleged or shown that there is a reasonable
9 expectation he will be subjected to prolonged and indefinite detention
10 again.

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12 Thus, the Petition should be dismissed as moot. See Masters v.
13 Schitgen, 28 Fed.Appx. 712, 714 (9th Cir. 2002) ("Masters' claim that
14 his INS detention was unconstitutional is now moot due to his
15 deportation and release from INS detention."); Riley v. I.N.S., 310 F.3d
16 1253, 1257 (10th Cir. 2002) ("[B]ased on the record in front of us, we
17 hold that Appellant's release from detention moots his challenge to the
18 legality of his extended detention.").

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