

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 09-22514-CIV-HUCK
MAGISTRATE JUDGE P. A. WHITE

PETUEL SUBRUN,	:	
	:	
Petitioner,	:	
	:	
v.	:	<u>REPORT OF</u>
	:	<u>MAGISTRATE JUDGE</u>
ERIC HOLDER,	:	
	:	
Respondent.	:	

The petitioner has filed a petition pursuant to 28 U.S.C. §2241 seeking release from INS detention. The government has filed a response, with multiple exhibits (DE#7), stating that the petitioner has been released from detention pending his removal from the United States. Included with their response is the Release Notification and Order of Supervision. (Exhibit A). The petitioner now resides in Miami, Florida.

To successfully challenge deportation the petitioner must establish that 1) the six month period for statutory removal as established in *Zadvydas v Davis*, 533 U.S. 678 (2001) had expired when the §2241 was filed, and 2) to provide evidence to believe that there is no significant likelihood of removal in the foreseeable future. *Akinwale v Ashcroft*, 287 F.3d 1050 (11 Cir. 2002).

Clearly, the petitioner's release from ICE detention renders this petition moot. Article III of the Constitution limits the federal court jurisdiction to the consideration of cases and controversies. In order to satisfy the constitutional requirement, the petitioner must suffer or be threatened with an actual injury

traceable to the defendant, which is likely to be redressed by a favorable judicial decision. Soliman v. United State, 296 F.3d 1237, 1243-44 (11 Cir. 2002). Once the petitioner is released, he must demonstrate an existing collateral consequence in order to maintain the suit. Id.Spencer v Kemma, 523 U.S. 1 (1998)

It is therefore recommended that this petition be dismissed as moot.

Dated this 8th day of October, 2009.


UNITED STATES MAGISTRATE JUDGE

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