

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE No. 14-24174-CIV-COOKE/TORRES

MULINIX AUTO BODY
WEST, INC., and GUANGJUN HU,

Plaintiffs,

v.

JEH JOHNSON, SECRETARY OF
HOMELAND SECURITY, UNITED
STATES DEPARTMENT OF HOMELAND
SECURITY; LEON RODRIGUEZ,
DIRECTOR OF U.S. CITIZENSHIP
AND IMMIGRATION SERVICES;
GREGORY RICHARDSON, DIRECTOR
OF THE U.S. CITIZENSHIP AND IMMIGRATION
TEXAS SERVICE CENTER; ERIC HOLDER,
ATTORNEY GENERAL OF THE UNITED
STATES; JAMES COMEY, DIRECTOR OF THE
FEDERAL BUREAU OF INVESTIGATIONS,

Defendants.

ORDER OF DISMISSAL FOR LACK OF SUBJECT MATTER JURISDICTION

THIS MATTER is before me on Defendants' Jeh Johnson, Secretary of Homeland Security, United States Department of Homeland Security, Leon Rodriguez, Director of U.S. Citizenship and Immigration Services, Gregory Richardson, Director of the U.S. Citizenship and Immigration Texas Service Center, Eric Holder, Attorney General of the United States, and James Comey, Director of the Federal Bureau of Investigations, Motion to Dismiss the Complaint as Moot. (ECF No. 19). The Motion to Dismiss has been fully briefed. (ECF Nos. 22, 23). For the reasons stated herein, the Motion to Dismiss is granted.

I. BACKGROUND

Plaintiffs filed this action for a writ of mandamus compelling U.S. Citizenship and Immigration Services ("USCIS") to render a decision on a pending I-140 Immigrant Petition for Alien Worker. (ECF No. 1). Plaintiff Mulinix Auto Body West, Inc.

(“Mulinix”) filed a Form I-140 Immigrant Petition for Alien Worker on August 21, 2013. (*Id.* at ¶ 29). As of the time of filing the Complaint, the Petition remained pending. (*Id.* at ¶ 30). In their Prayer for Relief, Plaintiffs ask for “a writ of mandamus compelling USCIS to render a decision on the I-140 Immigrant Petition for Alien Worker.” (*Id.* at ¶ 50).

On or about March 23, 2015, USCIS issued a final Decision on the I-140 Immigrant Petition for Alien Work. (ECF No. 19-1). Defendants move to dismiss this action on the grounds that this case is moot, and this Court lacks subject matter jurisdiction as a result.

II. LEGAL STANDARDS

Article III of the United States Constitution limits federal courts’ jurisdiction to the consideration of “Cases” or “Controversies.” U.S. Const. art. III, § 2. “[A]n action that is moot cannot be characterized as an active case or controversy.” *Adler v. Duval County Sch. Bd.*, 112 F.3d 1475, 1477 (11th Cir. 1997). A case is moot “when it no longer presents a live controversy with respect to which the court can give meaningful relief.” *Fla. Ass’n of Rehab. Facilities, Inc. v. Fla. Dep’t of Health and Rehab. Servs.*, 225 F.3d 1208, 1216-17 (11th Cir. 2000) (citations and quotation marks omitted). An “actual controversy must be extant at all stages of review, not merely at the time the complaint is filed.” *Preiser v. Newkirk*, 422 U.S. 395, 401-02 (1975) (citations and quotation marks omitted).

III. DISCUSSION

The USCIS’s rendering of a final decision on Plaintiff Mulinix’s I-140 Petition has rendered this case moot. *See Bathazi v. U.S. Dept. of Homeland Sec.*, 667 F.Supp.2d 1375, 1377-78 (S.D. Fla. 2009) (adjudication of I-140 petition rendered moot case for injunctive relief to compel adjudication of petition). Plaintiffs’ argument that this case is not moot because this Court has jurisdiction to review the denial of I-140 petitions is unavailing. (ECF No. 22). Plaintiffs’ Complaint sought injunctive relief to compel Defendants to render a decision on a pending I-140 Petition, not a review of Defendants’ decision on the I-140 Petition.

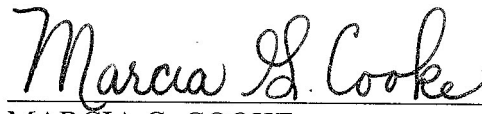
IV. CONCLUSION

As explained in this Order, this case is now moot, and this Court lacks subject matter jurisdiction. It is therefore **ORDERED and ADJUDGED** that:

1. Defendants’ Motion to Dismiss the Complaint as Moot (ECF No. 19) is **GRANTED**. This case is **DISMISSED with prejudice**.

2. All pending motions, if any, are **DENIED** as moot.
3. The Clerk shall **CLOSE** this matter.

DONE and ORDERED in chambers, at Miami, Florida, this 28th day of May 2015.



MARCIA G. COOKE
United States District Judge

Copies furnished to:
Edwin G. Torres, U.S. Magistrate Judge
Counsel of record