

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

ATTILA KISS,

Petitioner.

Case # 18-CV-869-FPG

v.

DECISION AND ORDER

U.S. MARSHAL SERVICE, WDNY, and
NIAGARA COUNTY JAIL,

Respondents.

On August 7, 2018, *pro se* Petitioner Attila Kiss filed a petition seeking a Writ of Habeas Corpus under 28 U.S.C. § 2241. ECF No. 1. Petitioner alleges that, as required by 18 U.S.C. § 3188, he was not extradited within the sixty days following the Court's dismissal of his previous habeas petition challenging his extradition. *Id.* Due to this delay, Petitioner seeks to be released from custody. *Id.*

On September 25, 2018, the Government moved to dismiss this case as moot because Petitioner was extradited to Romania on September 11, 2018. ECF No. 5 at 1.

“A case is moot when the issues presented are no longer live or the parties lack a legally cognizable interest in the outcome.” *Harvey v. Holder*, 63 F. Supp. 3d 318, 320 (W.D.N.Y. 2014) (quoting *Jackson v. Holder*, 893 F. Supp. 2d 629, 631 (S.D.N.Y. 2012)). District courts in this Circuit have found that “where an alien challenging his detention under 28 U.S.C. § 2241 is released during the pendency of his petition . . . the petition is rendered moot.” *Id.* (quoting *Denis v. DHS/ICE of Buffalo*, New York, 634 F. Supp. 2d 338, 341 (W.D.N.Y. 2009)); *see also Williams v. I.N.S.*, No. 02-CIV-3814, 2005 WL 1994102, at *2 (S.D.N.Y. Aug. 18, 2005) (“[Petitioner] lacks any interest in the outcome of this suit inasmuch as the relief he has requested—release from detention—has already been afforded to him. His petition is therefore moot.”). Here, the

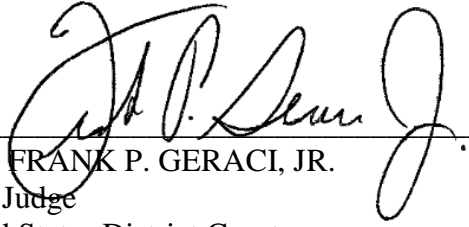
uncontroverted evidence demonstrates that Petitioner was released from custody on September 11, 2018. ECF No. 5 at 1. Accordingly, this action is moot and must be dismissed.

CONCLUSION

The Government's motion to dismiss, ECF No. 5, is GRANTED. No certificate of appealability shall issue because Petitioner failed to make a substantial showing that he was denied a constitutional right. The Clerk of Court is directed to close this case.

IT IS SO ORDERED.

Dated: October 4, 2018
Rochester, New York



HON. FRANK P. GERACI, JR.
Chief Judge
United States District Court