

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

BARIMAH OTOU ACHAMPONG,

Petitioner.

Case # 16-CV-6568-FPG

Case # 16-CV-6576-FPG

v.

DECISION AND ORDER

TODD TYRON, Facility Director,
Buffalo Federal Detention Facility,

Respondent.

Pro se Petitioner Barimah Otou Achampong (“Petitioner”) has two cases pending in this Court that both seek a Writ of Habeas Corpus. *See* Case Nos. 16-CV-6568-FPG; 16-CV-6576-FPG. Both cases allege that Petitioner was ordered removed to Ghana by the Department of Homeland Security (“DHS”) on June 23, 2015, and further allege that he has remained in the custody of the DHS for over six months pending deportation. Due to this delay, Petitioner seeks to be released from custody pending his deportation. For all practical purposes, the two cases are identical to each other.

The government has moved to dismiss both cases because Petitioner has been deported to Ghana, making these actions moot. *See* ECF Nos. 7, 8 (Case No. 16-CV-6576-FPG); ECF Nos. 19, 20 (Case No. 16-CV-6568-FPG). Petitioner has not responded to either of the government’s motions.

“Where an alien challenging his detention under 28 U.S.C. § 2241 is released during the pendency of his petition under an order of supervision, the petition is rendered moot.” *Harvey v. Holder*, 63 F.Supp. 3d 318, 320 (W.D.N.Y. 2014). Here, the uncontroverted evidence demonstrates that Petitioner was removed to Ghana on January 10, 2017 on a flight that departed from John F. Kennedy International Airport. *See* ECF No. 7 (Case No. 16-CV-6576-FPG); ECF

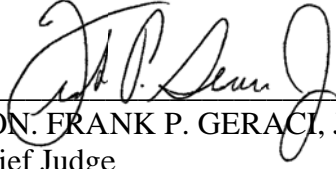
No. 19 (Case No. 16-CV-6568-FPG). As such, these actions have become moot, and must be dismissed.

CONCLUSION

The government's motions to dismiss (ECF Nos. 7, 8 in Case No. 16-CV-6576-FPG; ECF Nos. 19, 20 in Case No. 16-CV-6568-FPG) are granted, as these cases have become moot. No certificate of appealability shall issue, as Petitioner has failed to make a substantial showing of a denial of a constitutional right. The Clerk of Court is directed to close both matters.

IT IS SO ORDERED.

DATED: Rochester, New York
May 26, 2017



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