

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

PATRICK MADUABUCHI NWANKWO,

Petitioner,

No. 6:19-cv-06903-FPG
DECISION AND ORDER

-vs-

WILLIAM P. BARR, et al.,

Respondents.

Petitioner Patrick Maduabuchi Nwankwo (“Nwankwo” or “Petitioner”), an alien under an administratively final order of removal, filed an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 (“§ 2241”), claiming that his continued detention in the custody of the Department of Homeland Security (“DHS”), Immigrations and Customs Enforcement (“ICE”) is unconstitutional. ECF No. 1. Nwankwo requests immediate release from custody pursuant to an order of supervision or that this Court hold a hearing at which Respondents must justify his continued detention by clear and convincing evidence. Respondents initially opposed the Petition, ECF No. 5, but now have filed a Motion to Dismiss for lack of subject matter jurisdiction. ECF No. 7. Respondents assert that the Petition has been rendered moot due to Nwankwo’s release pursuant to an order of supervision. *See* ECF No. 7-1 at 2-3.

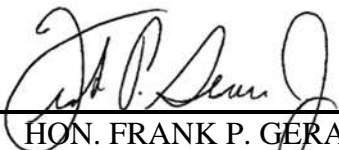
“[W]here an alien challenging his detention under 28 U.S.C. § 2241 is released during the pendency of his petition under an order of supervision, the petition is rendered moot.” *Harvey v. Holder*, 63 F. Supp.3d 318, 320 (W.D.N.Y. 2014) (quotation and citations omitted). Here, Respondents have submitted a Notice of Release and Order of Supervision, ECF No. 7-2, demonstrating that, on April 8, 2020, Nwankwo was released from DHS/ICE custody, subject to

certain conditions of supervision. Accordingly, the Petition is now moot and must be dismissed. *Harvey*, 63 F. Supp.3d at 320-21; *accord, e.g., Xi Li v. Sessions*, No. 17-CV-630-FPG, 2018 WL 353200, at *1 (W.D.N.Y. Jan. 10, 2018).

CONCLUSION

Respondents' Motion to Dismiss (ECF No. 7) is GRANTED, and the Petition (ECF No. 1) is DISMISSED AS MOOT. The Clerk of Court is directed to close this case.

SO ORDERED.



HON. FRANK P. GERACI, Jr.
United States District Judge

Dated: April 14, 2020
Rochester, New York