

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
EL PASO DIVISION**

**BALDEMAR PEREZ CRUZ,**  
Petitioner,

v.

**MERRICK B. GARLAND,**  
Respondent.

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**EP-23-CV-76-DB**

**MEMORANDUM OPINION AND ORDER**

Baldemar Perez Cruz, a citizen of Mexico, seeks his immediate release from immigration detention through a *pro se* petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. Pet’r’s Pet., ECF No. 1. He explains he walked into the El Paso Port of Entry and sought asylum on November 14, 2022. Mem. in Supp., ECF No. 2. He claims he was a victim of violence, extortion, and death threats by a cartel which operates in Michoacan, Mexico. *Id.* But he admits he was previously removed from the United States, so he was detained at the El Paso Service Processing Center and placed in removal proceedings. *Id.* He now asserts his custody is illegal and immigration authorities should have paroled him into the United States as an arriving alien. *Id.* at 5. He asks the Court to intervene order his release. *Id.* at 7.


The Court observes that Cruz has not paid the filing fee. It will, however, waive the fee in the interest of promptly addressing this matter.

The “sole function” of a habeas petition under 28 U.S.C. § 2241 to is to “grant relief from unlawful imprisonment or custody.” *Pierre v. United States*, 525 F.2d 933, 935–36 (5th Cir. 1976). Consequently, an individual may seek habeas relief under § 2241 only if he is “in custody” under federal authority “in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2241(c).

Merrick B. Garland, the Attorney General of the United States, reports through his counsel that Cruz was removed to Mexico pursuant to a final order of removal on February 22, 2023, and he is no longer in custody. Advisory, ECF No. 2 at 1. As a result, he maintains the relief Cruz seeks in his petition—namely release from detention—has already been granted and his petition is therefore moot. *Id.*

The Court concludes that, because Cruz has received the relief he requested, his cause of action is now moot, and the Court lacks jurisdiction to consider his petition. Accordingly, **IT IS ORDERED** that that Cruz’s petition is **DISMISSED WITHOUT PREJUDICE** for lack of jurisdiction. **IT IS FURTHER ORDERED** that all pending motions in this cause, if any, are **DENIED**. **IT IS FINALLY ORDERED** that the Clerk shall **CLOSE** this case.

SIGNED this 7<sup>th</sup> day of March 2023.

  
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**DAVID BRIONES**  
**SENIOR UNITED STATES DISTRICT JUDGE**