

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
OKLAHOMA

Stefany M. Araujo Bermudez v. Fred Figueroa

Bermudez · No. CIV-26-00179-JD · Decided April 6, 2026

SUMMARY

The United States District Court for the Western District of Oklahoma accepted a magistrate judge’s Report and Recommendation and dismissed Stefany M. Araujo Bermudez’s 28 U.S.C. § 2241 habeas petition as moot. The petition challenged her detention by Immigration and Customs Enforcement and sought release or an individualized bond hearing. The court held that Bermudez’s voluntary departure and release from ICE custody eliminated any available relief, and it also concluded that she waived appellate review by failing to object to the Report and Recommendation.

CASE DETAILS

COURT	United States District Court for the Western District of Oklahoma
JURISDICTION	United States District Court for the Western District of Oklahoma
DECIDED	April 6, 2026
DOCKET	CIV-26-00179-JD
DISPOSITION	dismissed
PROCEDURAL POSTURE	District court review of a magistrate judge's Report and Recommendation recommending dismissal of a 28 U.S.C. § 2241 habeas petition as moot.
STANDARD OF REVIEW	De novo review of portions of a magistrate judge's report and recommendation to which timely and specific objections are made under 28 U.S.C. § 636(b)(1); absent timely objection, the Tenth Circuit's firm waiver rule generally waives appellate review, subject to recognized exceptions. The court also liberally construed the pro se petition.
PRECEDENTIAL VALUE	unpublished district court order; nonprecedential
PARTIES	Stefany M. Araujo Bermudez v. Fred Figueroa

TOPICS

- immigration detention
- federal habeas corpus
- removal proceedings
- procedural due process
- civil procedure

PRACTICE AREAS

immigration law

federal habeas corpus

civil procedure

constitutional law

QUESTIONS PRESENTED

1. Whether Bermudez's failure to object to the Report and Recommendation waived appellate and district-court review under the Tenth Circuit's firm waiver rule.
2. Whether Bermudez's § 2241 petition challenging her ICE detention and seeking release or a bond hearing became moot after an Immigration Judge granted voluntary departure and Bermudez was released from ICE custody.
3. Whether the purported next friend established next-friend status and whether the petition was properly signed and verified.

HOLDINGS

1. The firm waiver rule applied because Bermudez was informed of the deadline and consequences for objecting, did not object or request an extension, and the interests of justice did not require review.
2. The petition was moot because Bermudez was no longer in ICE custody after an Immigration Judge granted voluntary departure, leaving no effective relief the court could grant on her detention-based claims for release or a bond hearing.
3. The Report and Recommendation also identified failure to establish next-friend status and failure by Bermudez to personally sign and verify the petition as independent grounds for dismissal, but the district court resolved the case on mootness and did not need to rely on those grounds.

KEY QUOTATIONS

“A case becomes moot when “an intervening circumstance deprives the [petitioner] of a personal stake in the outcome,” Genesis Healthcare Corp. v. Symczyk, 569 U.S. 66, 72 (2013) (citation modified), making it “impossible for a court to grant any effectual relief,” Knox v. Serv. Emps. Int’l Union, Loc. 1000, 567 U.S. 298, 307”

“For these reasons, the Court ACCEPTS the Report & Recommendation [Doc. No. 10] in its entirety and DISMISSES the Petition for a Writ of Habeas Corpus under 28 U.S.C. § 2241 [Doc. No. 1] as moot.”

FACTUAL BACKGROUND

Bermudez, a Venezuelan citizen, was detained by ICE at the Diamondback Correctional Facility in Watonga, Oklahoma. Her petition challenged detention without an individualized bond hearing and her transfer from Texas to Oklahoma, alleging a violation of the Fifth Amendment Due Process Clause, and sought release or a bond hearing. An Immigration Judge granted her voluntary departure on February 3, 2026, and she was no longer in ICE custody by the time of the Report and Recommendation.

PROCEDURAL HISTORY

Bermudez, proceeding pro se, filed a § 2241 petition challenging her ICE detention without an individualized bond hearing and her transfer from Texas to Oklahoma. The magistrate judge found that the purported next friend had not established next-friend status, ordered a response, and recommended dismissal after noting that an Immigration Judge had granted Bermudez voluntary departure and that she was no longer in ICE custody. The Report and Recommendation was returned undeliverable, but the district court concluded it had been mailed to Bermudez's last known address, that she had not timely objected, and that the firm waiver rule applied. The district court nevertheless conducted de novo review and accepted the recommendation, dismissing the petition as moot.

DISPOSITION

dismissed

CASES CITED

- Whitney v. New Mexico, 113 F.3d 1170, 1173 (10th Cir. 1997)
- Hall v. Bellmon, 935 F.2d 1106, 1110 (10th Cir. 1991)
- United States v. Raddatz, 447 U.S. 667, 674 (1980)
- United States v. 2121 E. 30th St., 73 F.3d 1057, 1060 (10th Cir. 1996)
- Moore v. United States, 950 F.2d 656, 659 (10th Cir. 1991)
- Morales-Fernandez v. I.N.S., 418 F.3d 1116, 1119-20 (10th Cir. 2005)
- Shrader v. Biddinger, 633 F.3d 1235, 1249 n.9 (10th Cir. 2011)
- Theede v. U.S. Dep't of Labor, 172 F.3d 1262, 1267 (10th Cir. 1999)
- Genesis Healthcare Corp. v. Symczyk, 569 U.S. 66, 72 (2013)
- Knox v. Serv. Emps. Int'l Union, Loc. 1000, 567 U.S. 298, 307 (2012)
- Bonilla v. Noem, No. 25-cv-62395-BLOOM/Elfenbein, 2025 WL 3496193, at *3 (S.D. Fla. Dec. 5, 2025)
- Banchon ex rel. Avila Duchi v. Francis, No. 25-cv-8162 (JGK), 2026 WL 63717, at *1-2 (S.D.N.Y. Jan. 8, 2026)

OPINION

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF OKLAHOMA STEFANY M. ARAUJO BERMUDEZ,)) Petitioner,)) v.) Case No. CIV-26-00179-JD) FRED FIGUEROA,)) Respondent.) ORDER Before the Court is the Report and Recommendation (“R. & R.”) issued by United States Magistrate Judge Amanda L. Maxfield on March 11, 2026. [Doc. No. 10].

The R. & R. recommends that the Court dismiss Petitioner Stefany M. Araujo Bermudez’s (“Bermudez”) Petition for a Writ of Habeas Corpus under 28 U.S.C. § 2241 [Doc. No. 1] as moot. For the reasons set forth below, the Court ACCEPTS the R. & R.¹ Bermudez, a Venezuelan citizen proceeding without counsel, was detained by U.S. Immigration and Customs Enforcement (“ICE”) at the Diamondback Correctional Facility in Watonga, Oklahoma.

The Petition, signed by Scarlett Araujo as purported next friend, challenges Bermudez's detention without an individualized bond hearing and her transfer from Texas to Oklahoma, asserting a violation of the Due Process Clause of the Fifth Amendment. [Doc. No. 1 at 2, 7, 9]. Bermudez requests immediate release from ICE custody or, alternatively, a bond hearing before an immigration judge.

Id. at 8. Judge 1 Citations to the parties' filings use ECF designations from the top of district court filings for both page numbers and exhibit numbers. Maxfield found Ms. Araujo had not met her burden to establish next-friend status and ordered Bermudez or Ms. Araujo to show cause by March 4, 2026. [Doc. No. 6 at 4]. Neither responded.

The R. & R. notes that on February 3, 2026, an Immigration Judge granted Bermudez voluntary departure, and that Bermudez is no longer in ICE custody. R. & R. at 3. The R. & R. concludes that the Petition should be dismissed as moot. Id. at 5.

The R. & R. advised the parties of their right to object by April 1, 2026, and warned that failure to timely object would waive appellate review of both factual and legal issues. Id. Bermudez did not file an objection or request an extension of time to do so.² I. LEGAL STANDARDS Courts employ a liberal construction to the legal sufficiency of pro se pleadings, "applying a less stringent standard than is applicable to pleadings filed by lawyers." *Whitney v. New Mexico*, 113 F.3d 1170, 1173 (10th Cir.

1997). This means that "if the court can reasonably read the pleadings to state a valid claim on which the plaintiff could prevail, it should do so." *Hall v. Bellmon*, 935 F.2d 1106, 1110 (10th Cir. 1991). Even so, the court will not "assume the role of advocate," *id.*, nor will it "supply additional factual allegations to round out a plaintiff's complaint or construct a legal theory on a plaintiff's behalf." *Whitney*, 113 F.3d at 1173–74.

2 The R. & R. also notes that the Petition is subject to dismissal because Ms. Araujo failed to establish next-friend status and Bermudez did not personally sign and verify the Petition. R. & R. at 5 n.3. When a magistrate judge issues a report and recommendation on a dispositive motion, the district judge "shall make a de novo determination of those portions of the report... to which objection is made." 28 U.S.C. § 636(b)(1). "[A] party may serve and file specific written objections to the proposed findings and recommendations" within fourteen days after being served with a copy of the magistrate judge's report.

Fed. R. Civ. P. 72(b)(2). The district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions. 28 U.S.C. § 636(b)(1). That the district judge performs a "de novo determination" does not mandate additional or repeat evidentiary hearings. *United States v. Raddatz*, 447 U.S. 667, 674 (1980). "[A] party's objections to the magistrate judge's report and recommendation must be both

timely and specific to preserve an issue for de novo review by the district court or for appellate review.” *United States v. 2121 E. 30th St.*, 73 F.3d 1057, 1060 (10th Cir.

1996). The Tenth Circuit has “adopted a firm waiver rule when a party fails to object to the findings and recommendations of the magistrate [judge].” *Moore v. United States*, 950 F.2d 656, 659 (10th Cir. 1991). Under this rule, “the failure to make timely objection to the magistrate[] [judge’s] findings or recommendations waives appellate review of both factual and legal questions.” *Id.* There are two exceptions to the waiver rule: “when (1) a pro se litigant has not been informed of the time period for objecting and the consequences of failing to object, or when (2) the ‘interests of justice’ require review.” *Morales-Fernandez v. I.N.S.*, 418 F.3d 1116, 1119 (10th Cir.

2005) (quoting *Moore*, 950 F.2d at 659). The Tenth Circuit has considered various factors to determine whether the interests of justice require review; these factors include “[1] a pro se litigant’s effort to comply, [2] the force and plausibility of the explanation for his failure to comply, and [3] the importance of the issues raised.” *Id.* at 1120. II. DISCUSSION The docket indicates that the R. & R. was returned undeliverable.

However, the Court’s local rules provide that “[p]apers sent by the court will be deemed delivered if sent to the last known address given to the court.” LCvR5.4. Moreover, “pro se litigants must follow the same rules of procedure that govern other litigants,” *Shrader v. Biddinger*, 633 F.3d 1235, 1249 n.9 (10th Cir. 2011), and litigants “bear the burden of filing notice of a change of address.... [t]he fact that [the litigant] is acting pro se does not eliminate this burden,” *Theede v. U.S. Dep’t of Labor*, 172 F.3d 1262, 1267 (10th Cir.

1999). Here, the R. & R. sufficiently informed Bermudez of both the time period for objecting and the consequences of failing to object. See R. & R. at 5. The interests of justice do not require review because the R. & R. was mailed to Bermudez at her last known address, and the Court has no evidence of Bermudez’s effort to comply or an explanation for her failure to do so.

Thus, the firm waiver rule applies, and Bermudez has waived her right to challenge the R. & R. Nevertheless, de novo review of the Petition and the R. & R. would lead the Court to reach the same conclusion as the Magistrate Judge.

The Petition is moot. A case becomes moot when “an intervening circumstance deprives the [petitioner] of a personal stake in the outcome,” *Genesis Healthcare Corp. v. Symczyk*, 569 U.S. 66, 72 (2013) (citation modified), making it “impossible for a court to grant any effectual relief,” *Knox v. Serv. Emps. Int’l Union, Loc. 1000*, 567 U.S. 298, 307 (2012) (citation modified).

An Immigration Judge granted Bermudez voluntary departure on February 3, 2026. R. & R. at 3. Bermudez is no longer in ICE custody. /d. Because the Petition challenges Bermudez’s detention

and seeks her release or a bond hearing, the voluntary departure order renders the requested relief moot. See *Bonilla v. Noem*, No. 25- cv-62395-BLOOM/Elfenbein, 2025 WL 3496193, at *3 (S.D. Fla. Dec. 5, 2025); *Banchon ex rel. Avila Duchi v. Francis*, No. 25-cv-8162 (JGK), 2026 WL 63717, at *1—2 (S.D.N.Y. Jan. 8, 2026). There is no relief the Court can grant. II. CONCLUSION For these reasons, the Court ACCEPTS the Report & Recommendation [Doc. No. 10] in its entirety and DISMISSES the Petition for a Writ of Habeas Corpus under 28 U.S.C. § 2241 [Doc. No. 1] as moot. Petitioner’s Emergency Motion to Stay Transfer of Petitioner, [Doc. No. 2] is denied as moot. A separate judgment will follow. IT IS SO ORDERED this 6th day of April 2026. UNITED STATES DISTRICT JUDGE