

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

_____	)	
MOAZZAM BEGG, <i>et al.</i> ,	)	
	)	
Petitioners,	)	
	)	
v.	)	Civil Action No. 04-CV-1137 (RMC)
	)	
GEORGE W. BUSH,	)	
President of the United States, <i>et al.</i> ,	)	
	)	
Respondents.	)	
_____	)	
JAMIL EL-BANNA, <i>et al.</i>	)	
	)	
Petitioners,	)	
	)	
v.	)	Civil Action No. 04-CV-1144 (RWR)
	)	
GEORGE W. BUSH,	)	
President of the United States, <i>et al.</i> ,	)	
	)	
Respondents.	)	
_____	)	
RICHARD BELMAR, <i>et al.</i>	)	
	)	
Petitioners,	)	
	)	
v.	)	Civil Action No. 04-CV-1897 (RMC)
	)	
GEORGE W. BUSH,	)	
President of the United States, <i>et al.</i> ,	)	
	)	
Respondents.	)	
_____	)	

**NOTICE OF TRANSFER OF PETITIONERS MOAZZAM BEGG,  
FEROZ ALI ABBASI, MARTIN MUBANGA AND RICHARD BELMAR,  
AND MOTION TO DISMISS THEIR PETITIONS FOR WRIT OF HABEAS CORPUS**

COME NOW Respondents, by and through their undersigned counsel, and hereby give notice that petitioners Moazzam Begg, Feroz Ali Abbasi, Martin Mubanga and Richard Belmar have been transferred from the custody of the United States to the United Kingdom. Because these petitioners have been transferred from the custody of the United States, there is no case or controversy before the Court and there exists no remedy that the Court can provide to these petitioners. Thus, respondents respectfully request that the Court dismiss their petitions for writ of habeas corpus as moot. As grounds for this motion, respondents state as follows:

1. Petitioners Moazzam Begg, Feroz Ali Abbasi, Martin Mubanga and Richard Belmar, citizens of the United Kingdom, filed petitions for writ of habeas corpus pursuant to 28 U.S.C. §§ 2241 and 2242. Their petitions challenge the validity of their detention in the United States Naval Base in Guantanamo Bay, Cuba, and request a declaration that their detention is unlawful. Petitioners seek either a writ of habeas corpus or an order requiring their release from custody. See Begg Petition, filed July 2, 2004; El-Banna First Amended Petition, filed July 8, 2004; Belmar Petition, filed November 1, 2004.

2. The United States has transferred petitioners Moazzam Begg, Feroz Ali Abbasi, Martin Mubanga and Richard Belmar from detention in Guantanamo Bay to the government of the United Kingdom. Thus, petitioners are no longer within the custody of the United States.

3. Article III courts are limited “to deciding ‘actual, ongoing controversies.’” Clarke v. United States, 915 F.2d 699, 700-01 (D.C. Cir. 1990) (en banc) (quoting Honig v. Doe, 484 U.S. 305, 317 (1988)); accord Preiser v. Newkirk, 422 U.S. 395, 401 (1975) (a federal court has no “power to render advisory opinions [or] . . . ‘decide questions that cannot affect the rights of litigants in the case before them.’”) (citation omitted). To satisfy the case-or-controversy

requirement of Article III, “it is not enough that a dispute was very much alive when suit was filed . . . The parties must continue to have a personal stake in the outcome of the lawsuit.” Lewis v. Continental Bank Corp., 494 U.S. 472, 477-78 (1990) (internal citations and quotations omitted). “A case is moot if ‘events have so transpired that the decision will neither presently affect the parties’ rights nor have a more-than-speculative chance of affecting them in the future.’” Pharmachemie B.V., 276 F.3d 627, 631 (D.C. Cir. 2002) (quoting Clarke, 915 F.2d at 700-01); accord Public Util. of the State of Cal. v. Federal Energy Regulatory Comm’n, 236 F.3d 708, 714 (D.C. Cir. 2001) (recognizing that a case becomes moot where events occur while the case is pending that “make it impossible for the court to grant any effectual relief whatever to a prevailing party”) (internal quotations omitted). A court lacks subject matter jurisdiction over a case that has become moot. See Lewis, 494 U.S. at 477.

4. The habeas statute provides that a writ of habeas corpus may be granted to a prisoner who “is in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2241(c)(3). See also Preiser v. Rodriguez, 411 U.S. 475, 484 (1973) (“[T]he essence of habeas corpus is an attack by a person in custody upon the legality of that custody”). Petitioners Moazzam Begg, Feroz Ali Abbasi, Martin Mubanga and Richard Belmar are no longer within the custody of the United States. Consequently, these petitioners no longer have a personal stake in the outcome of their petitions, and there is no relief that the Court can grant to them. Thus, their petitions are moot, and there is no case or controversy before the Court. The Court lacks subject-matter jurisdiction over the petitions filed by petitioners

Moazzam Begg, Feroz Ali Abbasi, Martin Mubanga and Richard Belmar, and their petitions should be dismissed, and all pending motions pertaining to them should be denied as moot.<sup>1</sup>

5. Pursuant to Paragraphs 34 and 45 of the Amended Protective Order and Procedures for Counsel Access to Detainees at the United States Naval Base in Guantanamo Bay, Cuba, dated November 8, 2004, all classified and protected information pertaining to petitioners Moazzam Begg, Feroz Ali Abbasi, Martin Mubanga and Richard Belmar made available to counsel for petitioners in these proceedings must be promptly destroyed, as explained therein.

WHEREFORE, for the reasons stated herein, respondents respectfully request that the Court dismiss the petitions filed by petitioners Moazzam Begg, Feroz Ali Abbasi, Martin Mubanga and Richard Belmar, and that all pending motions pertaining to them should be denied as moot. A proposed order is attached.

Dated: January 25, 2005

Respectfully submitted,

PETER D. KEISLER  
Assistant Attorney General

KENNETH L. WAINSTEIN  
United States Attorney

BRIAN D. BOYLE  
Principal Deputy Associate Attorney General

DAVID B. SALMONS  
Assistant to the Solicitor General

---

<sup>1</sup> The *Begg* and *Belmar* cases should be dismissed in their entirety. In the *El-Banna* case, petitioner Martin Mubanga should be dismissed as a petitioner, and all pending motions pertaining to him should be denied as moot. The claims pertaining to other petitioners in the *El-Banna* case remain pending.

DOUGLAS N. LETTER  
Terrorism Litigation Counsel

ROBERT D. OKUN  
Assistant United States Attorney  
Chief, Special Proceedings Section

/s/ Preeya M. Noronha

JOSEPH H. HUNT (D.C. Bar No. 431134)

VINCENT M. GARVEY (D.C. Bar No. 127191)

TERRY M. HENRY

LISA A. OLSON

JAMES J. SCHWARTZ

PREEYA M. NORONHA

ROBERT J. KATERBERG

ANDREW I. WARDEN

NICHOLAS J. PATTERSON

Attorneys

United States Department of Justice

Civil Division, Federal Programs Branch

20 Massachusetts Ave., N.W. Room 7144

Washington, DC 20530

Tel: (202) 514-4107

Fax: (202) 616-8470

Attorneys for Respondents