

**UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT**

SUMMARY ORDER

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO A SUMMARY ORDER FILED ON OR AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY FEDERAL RULE OF APPELLATE PROCEDURE 32.1 AND THIS COURT’S LOCAL RULE 32.1.1. WHEN CITING A SUMMARY ORDER IN A DOCUMENT FILED WITH THIS COURT, A PARTY MUST CITE EITHER THE FEDERAL APPENDIX OR AN ELECTRONIC DATABASE (WITH THE NOTATION “SUMMARY ORDER”). A PARTY CITING A SUMMARY ORDER MUST SERVE A COPY OF IT ON ANY PARTY NOT REPRESENTED BY COUNSEL.

1 At a stated term of the United States Court of Appeals for the Second
2 Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in
3 the City of New York, on the 10th day of April, two thousand twenty-four.
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5 **PRESENT:**

6 GUIDO CALABRESI,
7 MYRNA PÉREZ,
8 *Circuit Judges,*
9 ANNE M. NARDACCI,
10 *District Judge.*¹

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13 **Luis Castro-Almonte,**

14 *Petitioner-Appellant,*

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17 v. 23-297

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19 **Merrick Garland, in his official capacity as**

¹ Judge Anne M. Nardacci, of the United States District Court for the Northern District of New York, sitting by designation.

1 Attorney General of the United States, Jeffrey
2 Searls, in his official capacity as Acting
3 Assistant Field Office Director and
4 Administrator of the Buffalo Federal
5 Detention Facility, Alejandro Mayorkas, in
6 his official capacity as Secretary of the U.S.
7 Department of Homeland Security, Tae
8 Johnson, in his official capacity as Acting
9 Director of U.S. Immigration and Customs
10 Enforcement,

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12 *Respondents-Appellees.*

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15 **FOR PETITIONER-APPELLANT:**

Luis Castro-Almonte, pro se,
Batavia, NY.

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18 **FOR RESPONDENTS-APPELLEES:**

COURTNEY E. MORAN, Trial
Attorney, Office of Immigration
Litigation (William C. Peachey,
Director; Jessica W. D'Arrigo,
Senior Litigation Counsel, *on the
brief*), for Brian M. Boynton,
Principal Deputy Assistant
Attorney General, Civil Division,
United States Department of
Justice, Washington, DC.

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29 Appeal from a judgment of the United States District Court for the Western District
30 of New York (John L. Sinatra, Jr., *Judge*).

31 UPON DUE CONSIDERATION, IT IS HEREBY ORDERED, ADJUDGED, AND
32 DECREED that the appeal is DISMISSED AS MOOT.

33 Petitioner-appellant, Luis Castro-Almonte, proceeding pro se, appeals the district

1 court’s denial of his 28 U.S.C. § 2241 petition, which challenged his immigration detention
2 under 8 U.S.C § 1226(c).

3 Appellate courts “have an independent obligation to ensure that developments in
4 the case have not rendered the appeal moot.” *United States v. Williams*, 475 F.3d 468, 479
5 (2d Cir. 2007) (other citations omitted). A due process challenge to detention under 8
6 U.S.C. § 1226 is “rendered moot” when the Court’s decision on the appellant’s petition
7 for review of his removal order places him in the 90-day removal period set forth in 8
8 U.S.C. § 1231. *Wang v. Ashcroft*, 320 F.3d 130, 147 (2d Cir. 2003); *cf. Hechavarria v. Sessions*,
9 891 F.3d 49, 55 (2d Cir. 2018). Thus, because we have dismissed Castro-Almonte’s
10 petition for review of his removal order, this appeal challenging his detention under
11 § 1226 is moot since detention authority has necessarily switched to § 1231(a)(1). *See*
12 *Castro-Almonte v. Garland*, 2d Cir. 23-6738 (order entered March 27, 2024).²

13 When, as here, a § 2241 petition becomes moot on appeal, we vacate the district
14 court’s order and remand with instructions to dismiss the petition as moot. *See Hassoun*
15 *v. Searls*, 976 F.3d 121, 130 (2d Cir. 2020) (“When a case becomes moot on appeal, the
16 established practice in the federal system is to reverse or vacate the judgment below and
17 remand with a direction to dismiss.” (cleaned up)).

² If the removal order is not executed, Castro-Almonte can challenge his continued detention through a new 28 U.S.C. § 2241 petition. *See Zadvydas v. Davis*, 533 U.S. 678, 701 (2001) (explaining that prolonged detention under § 1231 is constitutionally suspect when removal is not “reasonably foreseeable”).

1 Accordingly, we DISMISS the appeal as MOOT, VACATE the district court's
2 order, and REMAND with instruction to dismiss the habeas petition as moot. All
3 pending motions are DENIED.

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FOR THE COURT:
Catherine O'Hagan Wolfe, Clerk of Court