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UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
EASTERN DISTRICT

MALDONADO BAUTISTA, *et al.*, on behalf of themselves and others similarly situated, et al.,

Plaintiffs-Petitioners,

v.

NOEM, *et al.*,

Defendants-Respondents.

Case No. 5:25-cv-01873-SSS-BFM

RESPONSE TO NOTICE OF LACK OF JURISDICTION

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RESPONSE TO NOTICE OF LACK OF JURISDICTION

Plaintiffs-Petitioners ("Plaintiffs") respectfully submit this response to Defendants-Respondents' ("Defendants") notice of lack of jurisdiction over the class complaint and amended petition. *See* ECF No. 24 ("Notice"). Defendants' notice fails to acknowledge that pursuant to Federal Rule of Civil Procedure 15(a)(1), Plaintiffs have the right to amend as a matter of course within 21 days after service. "Once the plaintiff elects to file an amended complaint, the new complaint is the only operative complaint before the district court." *Askins v. U.S. Dep't of Homeland Sec.*, 899 F.3d 1035, 1043 (9th Cir. 2018) (citing *Ferdik v. Bonzelet*, 963 F.2d 1258, 1262 (9th Cir. 1992)). The purpose of Rule 15(a) is to "complement[] the liberal pleading and joinder provisions of the federal rules by establishing a time period during which the pleadings may be amended automatically." Wright & Miller, 6 Fed. Prac. & Proc. Civ. § 1473 (3d ed.). "This rule is particularly important in civil rights cases." *Garmon v. Cnty. of Los Angeles*, 828 F.3d 837, 846 (9th Cir. 2016) (quoting *Ferdik*, 963 F.2d at 1261).

Here, Plaintiffs amended their petition to add two classes of noncitizens who face the same injury as they do from the same policies by Defendants, and therefore present a classic case for class treatment. *See* ECF No. 15. The class complaint and amended petition merely adds those class allegations and several new claims and

related requests for relief against the same policies raised in the original petition. *Id.* ¶¶ 88–98, 103–18, A–B.

The only substantive argument Defendants appear to raise is that Plaintiffs cannot amend their pleading after they have prevailed on their application for a temporary restraining order ("TRO") for lack of jurisdiction. Notice at 2. It is well established, however, that amendment relates back to the filing of the original habeas petition for purposes of establishing jurisdiction. *See* Fed. R. Civ. P. 15(c)(1) (amended pleading relates back when "the amendment asserts a claim or defense that arose out of the conduct, transaction, or occurrence set out . . . in the original pleading"); *Miller v. Laird*, 464 F.2d 533, 534 (9th Cir. 1972) ("[D]id the filing of the second amended petition relate back to the date of the original petition, so as to keep jurisdiction in the district court . . . ? We hold that it did[.]"). Plaintiffs alleged that they were subject to Defendants' unlawful policy subjecting them to mandatory detention under 8 U.S.C. § 1225(b)(2), and continue to challenge the same policies in their amended pleading. *Compare* ECF No. 1 ¶¶ 32–40, *with* ECF No. 15 ¶¶ 41–55.

Moreover, even if amended pleadings did not relate back to the original filing (which they do), the Court still has jurisdiction since Plaintiffs are still in the unlawful custody of Defendants without consideration for bond or a bond hearing. Even if released on bond pursuant to preliminary relief, they continue to face the

threat of mandatory detention in the future should Defendants prevail. *See Nielsen v. Preap*, 586 U.S. 392, 403 (2019) ("Unless that preliminary injunction was made permanent and was not disturbed on appeal, these individuals faced the threat of re-arrest and mandatory detention."). Thus, this Court plainly has jurisdiction over Plaintiffs' class complaint and amended petition.[1]

Moreover, the TRO simply maintains the status quo. "The status quo is the 'legally relevant relationship between the parties before the controversy arose.'" *NJOY, LLC v. iMiracle (HK) Ltd.*, 760 F. Supp. 3d 1070, 1078 (S.D. Cal. 2024) (quoting *Ariz. Dream Act Coal. v. Brewer*, 757 F.3d 1053, 1060 (9th Cir. 2014)). Here, consistent with Defendants' decades of practice and understanding of the applicable statutes, the status quo is that Plaintiffs must receive bond hearings while this case proceeds. *See, e.g.*, ECF No. 1 ¶¶ 39–44. Defendants have made clear they intend to defend Plaintiffs' mandatory detention, *see* ECF No. 8, and the Court has only issued *temporary* relief, *see generally* ECF No. 14. As a result, the parties must

[1] Rather than cite the law, Defendants' notice resorts primarily to ad hominem attacks against Plaintiffs' counsel, pointing to amendments made in *Vazquez Perdomo v. Noem*, No. 2:25-cv-05605-MEMF-SP (C.D. Cal.). Notice at 3. The rules expressly permit such amendments, and no judge has questioned those amendments in *Vazquez Perdomo*. Moreover, Defendants seem to suggest that Plaintiffs have sought a certain forum, but they ignore that Plaintiffs seek to certify *two* classes here, one of which is focused on the Adelanto ICE Processing Center, where the Immigration Judges ("IJs") are now denying bond. The Adelanto IJs' practice is not occurring in all immigration courts, as Plaintiffs note in the class complaint, thus compelling the need for relief *in this district*. *See* ECF No. 15 ¶ 49.

still litigate Plaintiffs' claims to finality, and there is no question that Plaintiffs have a strong interest in doing so.

Even if Plaintiffs did not have an interest in litigating this matter to finality, this case would not become moot following Plaintiffs' bond hearings because they seek to represent a class. In the context of detention, and particularly here, where similarly situated detained noncitizens are all likely to seek emergency relief, Plaintiffs' claims are "so inherently transitory that the trial court will not have even enough time to rule on a motion for class certification before the proposed representative's individual interest expires." *Pitts v. Terrible Herbst, Inc.*, 653 F.3d 1081, 1090 (9th Cir. 2011) (citation omitted). This principle defeats any claim of mootness.

Defendants complain about the timing of Plaintiffs' amendment but that is not an argument against jurisdiction.[2] Plaintiffs amended as of right and can challenge

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[2] Defendants insinuate that Plaintiffs were consulted about raising a class action during the "96 minutes" between this Court's TRO entry and the filing of a class complaint. Notice at 4. This has no factual basis and ignores the reality of working with detained clients. This Court ordered expedited briefing on Plaintiffs' TRO application, which Plaintiffs diligently completed on Friday, July 25. Plaintiffs amended promptly the next business day, on Monday, July 28. Nothing about this timeline suggests delay on Plaintiffs' part. Moreover, any arguments about the adequacy of Plaintiffs as representatives or Plaintiffs' counsel is more appropriate for any opposition to class certification.

Defendants likewise insinuate that Plaintiffs have ulterior motives in seeking to amend this case, rather than a pending, certified class action in the U.S. District Court for the Western District of Washington. Notice at 3 n.1. However, as

their detention as they were not only detained at the filing of the original petition but also continue to face the threat of unlawful detention in the future by Defendants.

Finally, Defendant' filing is procedurally inappropriate. Federal Rule of Civil Procedure 12 recognizes that the proper mechanism to raise Defendants' jurisdictional objection is a motion to dismiss. Instead, Defendants seek to bypass that procedure, as well as this Court's rules for conferring with an opposing party prior to filing such a motion. *See* L.R. 7-3. Plaintiffs intend to move expeditiously for class certification and partial summary judgment after conferring with opposing counsel in accordance with the local rules.

DATED this 30th of July, 2025.

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Defendants' counsel knows—because the same attorneys represent the defendants there—that case challenges a policy that arose well *prior* to the policy challenged here, already involves a certified class, and has a summary judgment hearing scheduled for August 22, 2025. *See* Notice of Hr'g, *Rodriguez Vazquez v. Bostock*, No. 3:25-cv-05240-TMC (W.D. Wash. July 21, 2025), ECF No. 60. It would not be in that class's interest to return to square one and relitigate class certification, the merits, and the government's motion to dismiss—the only people that would benefit from that are the defendants in *Rodriguez Vazquez*, who could use the delay to continue to detain people unlawfully.

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