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8 **UNITED STATES DISTRICT COURT**
9 **DISTRICT OF NEVADA**

10 MARLON OMAR BACA BELTRAND,

11 Petitioner,

12 v.

13 Jason KNIGHT, Acting Las Vegas/Salt
Lake City Field Office Director,
Enforcement and Removal Operations,
14 United States Immigration and Customs
Enforcement (ICE); et al.,

15 Respondents.
16

Case No. 2:25-cv-01430-CDS-EJY

**Federal Respondents' Response to
Motion for Temporary Restraining
Order (ECF No. 21)**

17 The Federal Respondents, through their undersigned counsel, submit the following
18 response to Petitioner's Ex Parte Motion for a Temporary Restraining Order (ECF No. 21)
19 ("motion for TRO").

20 **I. Introduction**

21 The Federal Respondents respectfully oppose Petitioner's Motion. The relief
22 Petitioner seeks—to prevent "the [Federal Respondents] from subjecting Petitioner to the
23 Expedited Removal Procedures outlined in 8 U.S.C. § 1225(b)(1)" (ECF No. 21, at 2, 25)—
24 has been mooted by intervening events. Petitioner has been taken out of expedited removal
25 proceedings. Because the motion no longer presents a live controversy, it should be denied
26 as moot.

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II. Background

On September 2, 2025, Petitioner filed his motion for TRO seeking to enjoin the Federal Respondents from subjecting Petitioner to the expedited removal proceedings outlined in 8 U.S.C. § 1225(b)(1).

Since Petitioner filed his motion for TRO, Petitioner has been administratively removed from expedited removal proceedings. Thus, the precise relief requested is no longer necessary or available.

III. Argument

A. The Motion for TRO is Moot Because Petitioner Has Obtained the Relief Requested

Federal courts are limited by Article III of the Constitution to deciding live “cases” or “controversies.” *Doe v. Madison Sch. Dist. No. 321*, 177 F.3d 789, 797 (9th Cir. 1999) (en banc); *Alvarez v. Smith*, 558 U.S. 87, 92 (2009). A dispute becomes moot “when the issues presented are no longer live or the parties lack a legally cognizable interest in the outcome.” *City of Erie v. Pap’s A.M.*, 529 U.S. 277, 287 (2000).

Here, the Motion for TRO expressly requests that the Court issue an “order Temporarily ordering the [Federal Respondents] to cease processing Petitioner as a subject for Expedited Removal.” ECF No. 21, at 24–25. The Federal Respondents hereby submit that, upon information and belief, Petitioner, as of September 5, 2025, has been removed from expedited removal proceedings, and he has not been subjected to expedited removal proceedings since then.¹

Because Petitioner is no longer subject to expedited removal, there is no longer an injury or controversy for the Court to remedy under the Motion for TRO. Courts routinely deny as moot motions seeking injunctions when the underlying circumstances have

¹ Undersigned counsel notes that the Federal Respondents are in the process of procuring the requisite evidentiary support, in a format that would satisfy the Court, to substantiate the Federal Respondent’s assertion regarding termination of expedited removal proceedings. Upon information and belief, undersigned counsel expects the Federal Respondents will provide the requisite evidentiary support on the morning of September 17, 2025, and undersigned counsel intends to submit to the Court the pertinent documentation as soon as possible. The Federal Respondents submit that although the Federal Respondents engaged in collaborative efforts to resolve the Motion for TRO through a stipulated dismissal of the motion, the parties could not agree on the specific language of a stipulation, and the Federal Respondents thus had limited time procure the evidentiary support for this filing.

1 changed. *See e.g., Ramirez v. Culley*, No. 220CV00609JADVCF, 2020 WL 1821305, at *1
2 (D. Nev. Apr. 9, 2020) (denying petitioner’s Njingu motion for a temporary restraining
3 order for mootness); *Hakimi v. Bank of New York Mellon*, No. 2:14-CV-2215 JCM CWH,
4 2015 WL 376465, at *2 (D. Nev. Jan. 28, 2015).

5 The Federal Respondents hereby emphasize that their position regarding a lack of
6 controversy is limited to the request for a TRO. A denial of the motion for TRO should be
7 construed as resolving Petitioner’s request to not be subjected to expedited removal
8 proceedings, and it should not be construed as resolving or conceding the legality of
9 Petitioner’s continued detention or the arguments raised in the Amended Petition for Writ
10 of Habeas Corpus (ECF No. 17) (“Amended Petition”). Although several facts alleged in the
11 Amended Petition—as a result of the intervening events presented herein—are no longer
12 applicable to Petitioner’s circumstances, the Federal Respondents reserve all defenses and
13 arguments with respect to the lawfulness of Petitioner’s continued detention, and they note
14 that the issue before the Court on this motion is limited to whether a live controversy remains
15 on Petitioner’s motion for TRO. It does not, and denial of the motion for TRO is thus
16 appropriate on that limited basis.

17 **B. The Court Need Not Reach Petitioner’s Request to Waive the Bond Requirement**

18 Because Petitioner’s request for a TRO is moot, the Court need not reach Petitioner’s
19 request to waive the bond requirement under Federal Rule of Civil Procedure 65(c). *See* ECF
20 No. 21, at 24. But even if the Court were to consider the issue, Petitioner’s arguments are
21 unpersuasive.

22 Rule 65(c) provides that “[t]he court may issue a preliminary injunction or a
23 temporary restraining order only if the movant gives security in an amount that the court
24 considers proper.” Although courts have discretion in setting the bond amount, the Ninth
25 Circuit has found that a district court is to at least consider the requirement and make findings
26 to justify the sufficiency of the bond amount. *See Johnson v. Couturier*, 572 F.3d 1067, 1086
27 (9th Cir. 2009) (court has discretion “as to the amount of security required”).
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1 Petitioner's financial situation, standing alone, is not a sufficient basis to eliminate
2 the bond requirement. Courts often set a nominal bond when equities favor the movant, but
3 a complete waiver is the exception, not the rule. *See Barahona-Gomez v. Reno*, 167 F.3d 1228,
4 1237 (9th Cir. 1999) (requiring only a \$1,000 bond in an immigration case to account for the
5 potential event that the government would be found to have been wrongly enjoined). A
6 nominal bond, not a wholesale waiver, is the proper balance between access to relief and
7 recognition of potential harm to the United States.

8 Accordingly, should the Court ever reach this issue, Respondents respectfully submit
9 that the Court should at minimum impose a nominal bond rather than waive Rule 65(c)
10 outright.

11 **IV. Conclusion**

12 For the foregoing reasons, the Federal Respondents request that the Court deny
13 Petitioner's Ex Parte Motion for a Temporary Restraining Order (ECF No. 21) as moot, with
14 the understanding that Federal Respondents reserve the right to raise any and all defenses
15 and arguments in response to the Amended Petition (ECF No. 17) and/or subsequent
16 amendments.

17 Respectfully submitted this 16th day of September 2025.

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21 /s/ Christian R. Ruiz
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