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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

JOSE IVAR PINEDA CAMPOS, Petitioner, v. SERGIO ALBARRAN, *et al.*, Respondents.	No. 3:25-cv-06920-JD **RESPONDENTS' RETURN TO WRIT OF HABEAS CORPUS**

TABLE OF CONTENTS

TABLE OF AUTHORITIES

CASES

STATUTES

REGULATIONS

I. INTRODUCTION

Respondents respectfully request that the Court deny Petitioner's petition for writ of habeas corpus as moot, as the Department of Homeland Security ("DHS") can no longer assert detention authority over Petitioner due to the dismissal of her removal proceedings. *See Cook Inlet Treaty Tribes v. Shalala*, 166 F.3d 986, 989 (9th Cir.1999) ("Mootness can be characterized as the doctrine of standing set in a time frame: The requisite personal interest that must exist at the commencement of the litigation (standing) must continue throughout its existence (mootness).") (internal quotation marks omitted). On September 3, 2025, Petitioner's removal proceedings were dismissed by an immigration judge, and Petitioner did not appeal this decision. *See* Supplemental Declaration of Gwendolyn Ng ("Ng Suppl. Decl.") at ¶ 6. As such, Petitioner is no longer in removal proceedings under 8 U.S.C. § 1229a and DHS cannot currently assert detention authority over Petitioner.

II. FACTUAL AND PROCEDURAL BACKGROUND

Petitioner is a native and citizen of Nicaragua who entered the United States without inspection, admission or parole on April 17, 2024. Ng Decl. (Dkt. No. 12-1) at ¶ 4. DHS Customs and Border Protections ("CBP") officers encountered and apprehended Petitioner in the San Diego Border Patrol sector area, and not at a designated port of entry on that day. *Id.* On April 18, 2024, Petitioner was served a Warrant for Arrest of Alien (Form I-200), a Notice to Appear (Form I-862) charging him as an inadmissible noncitizen "present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General," a Notice of Custody Determination (Form I-286), and an Order of Release on Recognizance (Form I-220A). *Id.* at ¶ 5. Petitioner was released on his own recognizance and placed into removal proceedings, as an alien present without admission or parole, and was charged with removability under section 212(a)(6)(A)(i) of the Immigration and Nationality Act ("INA") [8 U.S.C. § 1182(a)(6)(A)(i)]. *Id.*

On August 15, 2025, Petitioner appeared for a master calendar hearing in San Francisco immigration court. *Id.* ¶ 7. At the hearing, DHS counsel made a motion to dismiss removal proceedings. *Id.* The immigration judge did not rule on the motion and gave Petitioner time to respond to the motion. *Id.* After the hearing concluded, U.S. Immigration and Customs Enforcement ("ICE") Enforcement and

Removal Operations ("ERO") officers took Petitioner into custody pursuant to 8 U.S.C. § 1225(b). *Id.* ¶ 8. ICE ERO had previously reviewed the case and determined that Petitioner was subject to expedited removal pursuant to 8 U.S.C. § 1225(b) [INA § 235(b)]. *Id.* ¶ 8. On the same day, Petitioner filed his habeas petition. Dkt. No. 1. On August 16, 2025, he moved *ex parte* for a temporary restraining order ("TRO"). Dkt. Nos. 2, 3. On August 17, 2025, ERO released Petitioner after the Honorable Eumi K. Lee, United States District Judge, issued a TRO requiring his release. Dkt. Nos. 4, 5. Following additional briefing and a hearing, this Court, on November 5, 2025, granted a preliminary injunction requiring Petitioner's continued release pending these proceedings. Dkt. No. 22. On September 3, 2025, the immigration judge granted DHS's motion to dismiss Petitioner's removal proceedings. Ng. Decl. at ¶ 11; Ng Suppl. Decl. at ¶ 6. Petitioner did not appeal this decision. Ng Suppl. Decl. at ¶ 6. Petitioner is no longer in removal proceedings under 8 U.S.C. § 1229a. *Id.* Additionally, as of February 9, 2026, ICE has not processed Petitioner for Expedited Removal under 8 U.S.C. § 1225(b)(1) *Id.* at ¶ 7.

III. ARGUMENT

A. Petitioner's Petition for Writ of Habeas Corpus Is Moot As DHS Can No Longer Assert Detention Authority Over Petitioner

"Mootness is a jurisdictional issue, and 'federal courts have no jurisdiction to hear a case that is moot, that is, where no actual or live controversy exists.'" *Foster v. Carson*, 347 F.3d 742, 745 (9th Cir. 2003) (citing *Cook Inlet Treaty Tribes*, 166 F.3d at 989). If an individual is released while a habeas petition is pending, the petition may "continue to present a live controversy" if there remain some "collateral consequence that may be redressed by success on the petition." *Abdala v. I.N.S,* 488 F.3d 1061, 1064 (9th Cir. 2007). An immigration judge's decision becomes final if an appeal is not filed with the Board of Immigration Appeals ("BIA") within thirty calendar days. *See* 8 C.F.R. §§ 1003.38(b), 1003.39.

On September 3, 2025, the immigration judge granted DHS's motion to dismiss removal proceedings pursuant to 8 U.S.C. § 1229a. Petitioner did not appeal the immigration judge's decision, so it became final when the appeal period expired on October 3, 2025. As Petitioner is no longer in removal proceedings pursuant to 8 U.S.C. § 1229a, or any immigration proceedings, DHS can no longer assert any detention authority over him.

Additionally, Petitioner has not presented any possible collateral consequences that can be redressed by the habeas petition. *See Abdala,* 488 F.3d at 1064. A Court in this district has already found that a habeas petition filed by an individual in a similar position to this Petitioner was moot when she "has not been re-detained by DHS, and her underlying removal proceedings have been terminated." *Meza v. Bonnar*, No. 18-CV-2708, 2022 WL 2954333, at *1 (N.D. Cal. July 26, 2022). In *Meza,* the Court found that the relief sought through the habeas petition was "tethered to [Meza's] removal proceedings". *Id.* at *5. Similarly, in *Meza*, the Court found that the collateral consequences exception did not apply as "the possibility of future immigration proceedings is too speculative" and "does not present a concrete legal disadvantage sufficient to implicate the collateral consequences exception." *Id.* at *6.

Here, Petitioner's requested relief in his habeas petition is based on his ongoing removal proceedings. Dkt. No. 1 at 14. Although Petitioner's removal proceedings were dismissed so that ICE could pursue Expedited Removal pursuant to 8 U.S.C. § 1225(b)(1), ICE has declined to do so in the more than five months since the immigration judge granted dismissal. Ng Suppl. Decl. at ¶¶ 6, 7. Therefore, Petitioner has not presented any "legal disadvantage sufficient to implicate the collateral consequences exception" and his habeas petition is moot. *Meza*, 2022 WL 2954333, at *6.

B. Any Ruling On This Habeas Petition Must Allow For Re-Detention Upon a Final Administrative Removal Order.

Petitioner's habeas petition asks this Court to categorically enjoin his re-detention without a pre-detention hearing before a neutral arbiter. Dkt. No. 1 at 14. But any indefinite injunction would interfere with Respondents' ability to execute a valid order of removal and would both exceed the Court's jurisdiction and contravene the Supreme Court's unambiguous holding in *Zadvdas v. Davis* that mandatory detention without a bond hearing during the removal period is constitutionally permitted. *See Zadvydas v. Davis*, 533 U.S. 678 (2001).

Although Petitioner's immigration proceedings have ended, at some point, Petitioner may be subject to a final order of removal. Assuming Petitioner becomes subject to a final order of removal, her detention is mandatory under the INA. *See* 8 U.S.C. § 1231(a)(2)(A) ("During the removal period, the Attorney General shall detain the alien. Under no circumstance during the removal period shall the Attorney General release an alien who has been found inadmissible under section 1182(a)(2) or

1182(a)(3)(B) of this title or deportable under section 1227(a)(2) or 1227(a)(4)(B) of this title"). The Supreme Court has upheld the constitutionality of both the mandatory 90-day detention during the removal period and the presumptively reasonable six-month discretionary detention period following the removal period, both without the requirements of any bond hearing. *See Zadvydas*, 533 U.S. at 701. Thus, if Petitioner becomes subject to a future final order of removal, his detention will be both constitutionally permissible and statutorily required. Any ruling by this Court, therefore, must allow for the detention of Petitioner to execute a final removal order. *See Aguilar Garcia v. Kaiser*, No. 25-cv-5070, 2025 WL 2998169, at *4 (N.D. Cal. Oct. 24, 2025) (denying motion for preliminary injunction in petition seeking pre-detention hearing after petitioner's detention authority shifted to § 1231(a)(2)).

IV. CONCLUSION

Petitioner is no longer subject to detention by DHS. Accordingly, Respondents respectfully request that the Court deny Petitioner's habeas petition as moot. To the extent the Court grants Petitioner relief, it must limit any injunction to permit the execution of a future final order of removal.

DATED: February 13, 2026

Respectfully submitted,

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