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10 **IN THE UNITED STATES DISTRICT COURT**  
 11 **FOR THE DISTRICT OF ARIZONA**

12 Ali Hamad Al Bazergan

13 Petitioner,

14 v.

15 Donald J. Trump, et al.,

16 Respondents.

No. CV-25-03171-PHX-JJT(JFM)

**RESPONSE TO PETITION FOR  
 WRIT OF HABEAS CORPUS  
 (DOC. 1)**

18 Respondents President Donald J. Trump; United States Immigration and Customs  
 19 Enforcement; Executive Office of Immigration Review; Department of Homeland Security  
 20 (“DHS”) Secretary Kristi Noem; Immigrations and Customs Enforcement (“ICE”) Field  
 21 Office Director John Cantu and Acting Director Todd Lyons; Eloy Detention Center  
 22 Warden Fred Figueroa; and United States Attorney General Pam Bondi (“Respondents”),  
 23 by and through undersigned counsel, respond in opposition to Petitioner’s Petition for Writ  
 24 of Habeas Corpus (Doc. 1). The Court previously granted in part and denied in part  
 25 Petitioner’s motion for temporary restraining order and preliminary injunction and ordered  
 26 Petitioner released from immigration detention. *See* Doc. 15. Petitioner was released and  
 27 is no longer in custody. For this reason, and because the Court resolved all other issues  
 28 raised in the Petition, the Petition is moot and should be dismissed.

1 **I. INTRODUCTION**

2 The Court's prior order divided the Petition into three general claims for injunctive  
3 relief, each claim supported by multiple counts of the Petition. See Doc. 15. The first claim  
4 was for release from detention and was granted. *Id.* at 9. The second claim was for an order  
5 that Petitioner is entitled to a hearing before being re-detained and was denied. *Id.* at 9-10.  
6 The third claim was for an order that Petitioner receive a hearing before being removed to  
7 a third country and was denied. *Id.* at 12.

8 Given the language in the Court's order on the motion, it is not clear that any claims  
9 or Counts remain for the Court to decide in connection with the Petition. Respondents  
10 incorporate herein the statements made in their response to the motion for TRO and PI  
11 (Doc. 10) and at oral argument.<sup>1</sup>

12 **II. THE PETITION FOR WRIT OF HABEAS CORPUS IS MOOT.**

13 Petitioner sought an order directing his immediate release from immigration  
14 detention. Petitioner was released after the Court issued an order to release him from  
15 detention. Petitioner's release from custody moots his habeas petition.

16 Petitioner's relevant background was described in detail in prior filings. See e.g.,  
17 Doc. 10 at 2-5; Doc. 10-1; Doc. 15 at 2-3.

18 The Court may grant a writ of habeas corpus to a detainee who is "in custody in  
19 violation of the Constitution or laws or treaties of the United States." 28 U.S.C.  
20 § 2241(c)(3). 8 U.S.C. § 1231 governs the detention of aliens whose order of removal is  
21 administratively final. "The case or controversy requirement of Article III admonishes  
22 federal courts to avoid premature adjudication and to abstain from entangling themselves  
23 in abstract disagreements." *U.S. West, Inc. v. Tristani*, 182 F.3d 1202, 1208 (10th Cir.  
24 1999) (internal quotation marks and citations omitted). A court must dismiss a case as moot  
25 if, at any point, it becomes certain either that "the allegedly wrongful behavior could not  
26 reasonably be expected to recur," *Friends of the Earth Inc. v. Laidlaw Envtl. Ass'n (TOC)*,

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28 <sup>1</sup> The Court suggested that the parties may address the effects of Section 1252 on  
the Petition in further briefing. Doc. 15 at 13. Respondents briefed Section 1252 in their  
response to the motion which is incorporated herein. Doc. 10 at 7-8.

1 *Inc.*, 528 U.S. 167 (2000) (citation omitted), or that there is no effective relief remaining  
2 for the court to provide. *See Calderon v. Moore*, 518 U.S. 149, 150 (1996). The case or  
3 controversy requirement warrants a finding of mootness if: (1) the petitioner has received  
4 the relief requested in the petition; or (2) the court is unable to provide the petitioner with  
5 the relief sought. *Munoz v. Rowland*, 104 F.3d 1096, 1097-98 (9th Cir. 1997). A court does  
6 not have subject matter jurisdiction to consider a habeas claim that is moot. *See, e.g.*,  
7 *McCullough v. Graber*, 726 F.3d 1057, 1060 (9th Cir. 2013).

8 In this case, Petitioner sought release from detention, but he is no longer detained.  
9 Petitioner's case is rendered moot because there is no case or controversy. *See Spencer v.*  
10 *Kemna*, 523 U.S. 1 (1998) (“[M]ootness, however it may have come about, simply deprives  
11 us of our power to act; there is nothing for us to remedy, even if we were disposed to do  
12 so. We are not in the business of pronouncing that past actions which have no demonstrable  
13 continuing effect were right or wrong.”); *Abdala v. INS*, 488 F.3d 1061, 1064-65 (9th Cir.  
14 2007) (discussing and collecting cases wherein a petitioner's release from detention or  
15 parole or their removal rendered a habeas petition moot); *Sayyah v. Farquharson*, 382 F.3d  
16 20, 22 n.1 (1st Cir. 2004) (holding that a “claim[of] indefinite detention . . . was mooted  
17 by [petitioner's] subsequent release.”); *Mensah-Yawson v. Lowe*, No. 3:16-cv-200, 2016  
18 WL 3704878, \*1 (M.D. Pa. July 12, 2016) (“[T]he habeas petition challenges petitioner's  
19 continued detention pending removal. Because petitioner has since been released from ICE  
20 custody and removed from the United States, the petition no longer presents an existing  
21 case or controversy. Accordingly, the instant habeas corpus petition will be dismissed as  
22 moot.”).

### 23 **III. ALL ISSUES WERE RESOLVED BY THE PRIOR ORDER (DOC. 15)**

24 In its order on the motion for TRO and PI, the Court resolved each of the three  
25 claims from the Petition. The first claim was for release from detention and was granted.  
26 Doc. 15 at 9. Petitioner has been released.

27 The second claim was for an order that Petitioner is entitled to a hearing before  
28 being re-detained and was denied. *Id.* at 9-10. The Court has already found a risk of extreme

1 or very serious damage to Petitioner exists from his detention. *Id.* at fn. 5. The Court has  
2 also already noted “that under *Zadvydas*, as well as according to INA provisions and their  
3 supporting regulations... an alien may be detained pending removal without a finding of  
4 flight risk or danger.” *Id.* And, the Court has even described a possible sequence of events  
5 in which Respondents follow the law and Petitioner would not be entitled to a hearing  
6 before being re-detained. *Id.* at 9-10. While it remains possible that a future re-detention  
7 could occur, Petitioner is not entitled to the blanket relief he seeks in claim two.

8 The third claim was for an order that Petitioner receive a hearing before being  
9 removed to a third country and was denied. *Id.* at 12. The Court noted in its order on the  
10 motion that, with respect to this claim, Petitioner meets the criteria for the *D.V.D.* class and  
11 his claims mirror the relief sought in that case. *Id.* at 11-12 (“The relief Petitioner seeks  
12 and the claims he makes underlying it duplicate the *D.V.D.* class action’s allegations and  
13 prayer for relief.”) The Court then stated unequivocally, “For that reason, the Court will  
14 deny Petitioner’s request to enjoin Respondents from removing him from the United States  
15 without first providing him the above procedures.” *Id.* at 12. There does not appear to be  
16 any further unresolved dispute with respect to the third claim.

17 **IV. CONCLUSION**

18 The Petition should be dismissed as moot. To the extent the Court determines it is  
19 necessary to officially rule on the non-custody related claims for injunctive relief in the  
20 Petition, Respondents believe the same issues, with the same law, and the same legal  
21 outcome exist as at the TRO and PI stage, so the existing order resolves those issues.

22 RESPECTFULLY SUBMITTED October 14, 2025.

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