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10 UNITED STATES DISTRICT COURT
11
12 FOR THE CENTRAL DISTRICT OF CALIFORNIA

13 SAUL PANUELAS GUTIERREZ,

14 Petitioner,

15 v.

16 KRISTI NOEM, Secretary, Department
of Homeland Security; et al.,

17 Respondents.
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No. 5:25-cv-02668-DOC-RAO

**RESPONDENTS' OPPOSITION TO
PETITIONER'S REQUEST FOR A
PRELIMINARY INJUNCTION**

Hearing Date: November 13, 2025
Hearing Time: 10:00 a.m.
Courtroom: Ronald Reagan Federal
Building and Courthouse
Courtroom 10A

Honorable David O. Carter
United States District Judge

**RESPONDENTS' OPPOSITION TO PETITIONER'S REQUEST FOR
PRELIMINARY INJUNCTION**

I. INTRODUCTION

On October 31, 2025, the Court issued an Order Granting Petitioner's Ex Parte Application for a Temporary Restraining Order requiring Respondents to release Petitioner from custody on or before November 7, 2025, at 1:00 p.m. Pacific Standard Time. (ECF 16.) The Court further set a preliminary injunction hearing on November 13, 2025, at 10:00 a.m. and set deadlines for optional additional briefing by the parties. (*Id.*)

II. ARGUMENT

A. The Court Should Deny A Preliminary Injunction Because Petitioner's Release From Immigration Custody Moots His Claims.

On November 5, 2025, Petitioner was released from immigration custody. *See* Exhibit A. Petitioner's release moots the requested preliminary injunction and this habeas petition more generally. *See, e.g., Javier Gonzales et al. v. Kristi Noem et al.*, 5:25-cv-02054-ODW-BFM, ECF 16 (August 25, 2025 minute order by Hon. Judge Wright, denying as moot petitioners' pending request for a preliminary injunction given their receipt of § 1226(a) bond hearings pursuant to TRO, and issuing petitioners an order to show cause re: dismissal); ECF 17 (petitioners' notice of voluntary dismissal); ECF 18 (order dismissing petition). *See also* *Moises Salomon Zaragoza Mosqueda v. Kristi Noem et al.*, 5:25-cv-002304-CAS-BFM, ECF 15 (September 17, 2025 minute order by Hon. Judge Snyder, denying preliminary injunction and issuing OSC re dismissal for mootness given the petitioners' receipt of immigration bond hearings); and ECF 16 (notice of voluntary dismissal). Petitioner's apparent fear of re-detention in the future is insufficient to warrant injunctive relief because Petitioner does not dispute that he is subject to a final order of removal that the Government may execute in the future.

B. Petitioner's Claim Regarding Transfer Outside of This Judicial District Is Moot and Lacks Merit.

The Court need not reach the issues of whether Respondents should be enjoined

1 from transferring Petitioner outside of this judicial district or the third country removal
2 issue. Petitioner's request for an injunction against his transfer outside of this judicial
3 district is moot. Even if it weren't moot, Petitioner's claim lacks legal merit.

4 The government may detain aliens pending their removal pursuant to a removal
5 order. Under 8 U.S.C. § 1231(g)(1), the Executive has great discretion in deciding where
6 to detain aliens. The INA precludes review of "any . . . decision or action of the Attorney
7 General . . . the authority for which is specified under this subchapter to be in the
8 discretion of the Attorney General" 8 U.S.C. § 1252(a)(2)(B)(ii). Therefore,
9 § 1252(a)(2)(B)(ii) bars relief that would impact where and when to detain Petitioner,
10 should Petitioner be re-detained in the future. *See Van Dinh v. Reno*, 197 F.3d 427, 433–
11 34 (10th Cir. 1999) (citing *Rios-Berrios v. INS*, 776 F.2d 859, 863 (9th Cir. 1985))
12 (finding that judicial review of decision to transfer a detainee is inappropriate due to lack
13 of jurisdiction).

14 In *Van Dinh*, the noncitizen-plaintiffs were incarcerated at a facility in Colorado,
15 where they were notified of the "distinct possibility" that they would be transferred to
16 another facility. *See 197 F.3d at 429*. Plaintiffs filed a *Bivens* class action complaint
17 requesting injunctive relief restraining all noncitizen transfers until local counsel had an
18 opportunity to interview their clients and injunctive relief restraining transfer outside the
19 area of those noncitizens with an established attorney-client relationship. *See id.* There,
20 the Tenth Circuit concluded that "the district court had no jurisdiction to review the
21 Attorney General's discretionary decision to transfer and detain appellants in another
22 INS facility under § 1252(a)(2)(B)(ii)" and thus no *Bivens* class action was available. *Id.*
23 at 435. In reaching this conclusion, the Court found that "[t]he Attorney General is
24 mandated to 'arrange for appropriate places of detention for [noncitizens] detained
25 pending removal.'" *Id.* at 433 (citing 8 U.S.C. § 1231(g)(1)). "The Attorney General's
26 discretionary power to transfer [noncitizens] from one locale to another, as [he or] she
27 deems appropriate, arises from this language." *Id.* Thus, it is "apparent that a district
28 court has no jurisdiction to restrain the Attorney General's power to transfer

1 [noncitizens] to appropriate facilities by granting injunctive relief in a *Bivens* class action
2 suit.” *Id.*

3 Moreover, in *Rios-Berrios*, the petitioner was apprehended in California, charged
4 with entry without inspection, and moved to Florida for a deportation hearing that was
5 scheduled to begin effectively five working days from the time of his apprehension. *See*
6 776 F.2d at 860-61. The immigration judge twice continued the hearing for a total of two
7 working days, first after the petitioner stated that he needed time to find an attorney and
8 again after being informed that the petitioner had called a friend who had been in contact
9 with an attorney and bail bondsman. *See id.* After the immigration judge granted the
10 continuances, he also advised that the hearing would proceed with or without counsel.
11 *See id.* When the petitioner appeared without counsel, there was no inquiry regarding the
12 petitioner’s expressed wish to be represented by counsel and the hearing went forward.
13 *See id.* The Ninth Circuit found a violation of the petitioner’s right to be represented by
14 counsel of his own choice at his own expense. *See id.* at 862-63. However, the Ninth
15 Circuit clarified that there was no right to block his transfer to another district:

16 We wish to make ourselves clear. We are not saying that the petitioner should
17 not have been transported to Florida. That is within the province of the
18 Attorney General to decide. We merely say that his transfer there, combined
19 with the unexplained haste in beginning deportation proceedings, combined
20 with the fact of petitioner’s incarceration, his inability to speak English, and
21 his lack of friends in this country, demanded more than lip service to the right
of counsel declared in statute and agency regulations, a right obviously
intended for the benefit of aliens in petitioner’s position.

22 *Id.* at 863 (citations omitted).

23 Accordingly, judicial intervention is not proper with respect to the government’s
24 decision about where to detain Petitioner, even assuming that this claim has not been
25 mooted out by his release from immigration custody.

26 **C. Petitioner’s Claim Regarding Third Country Removal Is Premature**
27 **and Improper.**

28 Petitioner’s request for an injunction regarding potential removal to a third

1 country is not ripe. The government is continuing to take steps to remove Petitioner to a
2 third country. Petitioner's speculation that applicable procedures regarding third country
3 removal will not be followed is insufficient to present a live case or controversy to
4 provide this Court with jurisdiction over his claim regarding third country removal.
5 Indeed, it is improper to prospectively issue an injunction simply requiring the
6 government to follow the law. *See Elend v. Basham*, 471 F.3d 1199, 1209 (11th Cir.
7 2006) (court cannot fashion an injunction that abstractly commands the Secret Service to
8 obey the First Amendment, noting that injunction requiring party to do nothing more
9 specific than 'obey the law' is impermissible."); *E.E.O.C. v. AutoZone, Inc.*, 707 F.3d
10 824, 841 (7th Cir. 2013) ("An obey-the-law injunction departs from the traditional
11 equitable principle that injunctions should prohibit no more than the violation
12 established in the litigation or similar conduct reasonably related to the violation."); *see*,
13 *e.g.*, *Lowery v. Circuit City Stores, Inc.*, 158 F.3d 742, 767 (4th Cir. 1998) (an "obey the
14 law" injunction "impermissibly subjects a defendant to contempt proceedings for
15 conduct unlike and unrelated to the violation with which it was originally charged");
16 *Burton v. City of Belle Glade*, 178 F.3d 1175, 1201 (11th Cir. 1999) ("As this injunction
17 would do no more than instruct the City to 'obey the law,' we believe that it would not
18 satisfy the specificity requirements of [Federal Rule of Civil Procedure] 65(d) and that it
19 would be incapable of enforcement."); *City of New York v. Mickalis Pawn Shop, LLC*,
20 645 F.3d 114, 144 (2d Cir. 2011) ("[A]n injunction [must] be 'more specific than a
21 simple command that the defendant obey the law.'"). As the Supreme Court has
22 explained,

23 The specificity provisions of Rule 65(d) are no mere technical requirements.
24 The Rule was designed to prevent uncertainty and confusion on the part of
25 those faced with injunctive orders, and to avoid the possible founding of a
26 contempt citation on a decree too vague to be understood. Since an
27 injunctive order prohibits conduct under threat of judicial punishment, basic
28 fairness requires that those enjoined receive explicit notice of precisely what
conduct is outlawed.

Schmidt v. Lessard, 414 U.S. 473, 476 (1974) (cleaned up). Reiterating existing law as

1 an injunction or TRO does not perform this function.

2 **III. CONCLUSION**

3 Respondents respectfully request that Petitioner voluntarily dismiss this action, or
4 that the Court issue an order to show cause re: dismissal.

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6 Dated: November 10, 2025

Respectfully submitted,

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