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

13 SAUL PANUELAS GUTIERREZ,

14 Petitioner,

15 v.

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

18 Respondents.

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

**RESPONDENTS' RESPONSE TO
PETITION FOR WRIT OF HABEAS
CORPUS PURSUANT TO 28 U.S.C.
§ 2241**

Honorable Rozella A. Oliver
United States Magistrate Judge

I. INTRODUCTION

The Petition has been mooted by the Court’s October 31, 2025 Order Granting Plaintiff’s *Ex Parte* Application for Temporary Restraining Order. (ECF 16.) On November 5, 2025, Petitioner was released from immigration custody. *See* Exhibit A. On November 12, 2025, following briefing by the parties, the Court issued an Order Entering Preliminary Injunction. (ECF 21.)

There is not a substantive separate controversy to address by a response to the Petition at this juncton, as the Court has already ruled on and resolved the issues. Respondents continue to maintain that the TRO Order and Preliminary Injunction Order should not have been issued, and that no relief should be awarded on the Petition, but acknowledge that the issues in the Petition have generally been mooted by Petitioner’s release. Nonetheless, Respondents reiterate below the reasons they believe the Petition was defective and that Petitioner has not established entitlement to relief.

II. LEGAL STANDARD

District courts may exercise jurisdiction over habeas petitions where the petitioner is in custody in violation of the Constitution and laws or treaties of the United States. 28 U.S.C. § 2241(a), (c); id. § 2241(c) (“The writ of habeas corpus shall not extend to a prisoner unless . . . [h]e is in custody in violation of the Constitution or laws or treaties of the United States”). “The party seeking relief bears the burden of establishing jurisdiction.” *Pinson v. Carvajal*, 69 F.4th 1059, 1063 (9th Cir. 2023).

“The Ninth Circuit has long held that the writ of habeas corpus is limited to attacks upon the legality or duration of confinement.” *Id.* at 1065 (citing *Crawford v. Bell*, 599 F.2d 890, 891 (9th Cir. 1979)) (cleaned up), *cert. denied sub nom. Sands v. Bradley*, 144 S. Ct. 1382 (2024); *see also Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973) (“It is clear . . . from the common-law history of the writ . . . that the essence of habeas corpus is an attack by a person in custody upon the legality of that custody, and that the traditional function of the writ is to secure release from illegal custody.”). “[C]laims that if successful would not necessarily lead to the invalidity of the custody

are not at the core of habeas corpus.” *Pinson*, 69 F.4th at 1071.

III. ARGUMENT

A. Petitioner’s Release From Immigration Custody Moots His Claims.

The Court should deny the Habeas Petition and dismiss the case as moot. The case or controversy requirement of Article III of the Constitution deprives federal courts of jurisdiction to hear moot cases. *See Iron Arrow Honor Society v. Heckler*, 464 U.S. 67, 70 (1983). A case becomes moot if the “issues presented are no longer ‘live’ or the parties lack a legally cognizable interest in the outcome.” *Murphy v. Hunt*, 455 U.S. 478, 481 (1982). Federal courts do not have the power to decide a case that does not affect the rights of a litigant in the case before it. *See Mitchell v. Dupnik*, 75 F.3d 517, 527–28 (9th Cir. 1996).

Petitioner was released from immigration custody. *See* Exhibit A. While Petitioner may speculate about future re-detention, Article III requires a concrete, actual or imminent injury; mere speculation about possible future injury is insufficient. *See, e.g., City of Los Angeles v. Lyons*, 461 U.S. 95, 102 (1983) (making plain that plaintiff must show an injury or threat of injury that is “real and immediate,” not “conjectural” or “hypothetical”); *Whitmore v. Arkansas*, 495 U.S. 149, 158 (1990) (“Each of these cases demonstrates what we have said many times before and reiterate today: Allegations of possible future injury do not satisfy the requirements of Art. III. A threatened injury must be ‘certainly impending’ to constitute injury in fact.”). Merely showing a “possibility” of irreparable harm is insufficient. *See Winter*, 555 U.S. at 22. Indeed, “[i]ssuing a preliminary injunction based only on a possibility of irreparable harm is inconsistent with [the Supreme Court’s] characterization of injunctive relief as an extraordinary remedy that may only be awarded upon a clear showing that the plaintiff is entitled to such relief.” *Id.* Petitioner identifies no concrete, imminent plan by the Respondents to re-detain him unlawfully—he simply cannot. “Absent a sufficient likelihood that [he] will again be wronged *in a similar way*,” *Lyons*, 461 U.S. at 111 (emphasis added), Petitioner cannot establish standing to seek an injunction much less

1 irreparable harm. *See, e.g., Hai Chieu Dam v. Timothy Robbins*, 2:25-cv-08133-JWH-
2 MAA, Dkt. No. 7 at 6 (C.D. Cal. Sept. 16, 2025) (declining to address whether petitioner
3 was “in custody” because petition for an injunction barring re-detainment was not ripe).
4 Recently, where a petitioner argued that “his future detention is not speculative because
5 the call-in for a physical appointment is a typical ruse to re-detain noncitizens on
6 supervised release, and that he still faces a risk of unlawful future detention,” the court
7 found that he “fail[ed] to sufficiently allege an injury or threat of injury because the
8 event giving rise to the Petition has passed and Petitioner’s alleged threat of future injury
9 is too speculative and unripe” and relatedly that he “fail[ed] to present sufficient
10 allegations or evidence of the threat of future injury to confer Article III standing.” *J.P.*
11 *v. Santacruz*, No. 8:25-CV-01640-FWS-JC, 2025 WL 2998305, at *4 (C.D. Cal. Oct. 24,
12 2025).

13 Because Petitioner is no longer in custody, cannot show any continuing collateral
14 consequence that this Court could redress via habeas, and relies only on speculative
15 future harm, his habeas petition is rendered moot. Accordingly, Respondents request that
16 the Court deny the Habeas Petition and dismiss the case.

17 **B. Petitioner’s Claims Regarding Transfer Outside of This Judicial**
18 **District Lacks Merit.**

19 The government may detain aliens pending their removal pursuant to a removal
20 order. Under 8 U.S.C. § 1231(g)(1), the Executive has great discretion in deciding where
21 to detain aliens. The INA precludes review of “any . . . decision or action of the Attorney
22 General . . . the authority for which is specified under this subchapter to be in the
23 discretion of the Attorney General” 8 U.S.C. § 1252(a)(2)(B)(ii). Therefore,
24 § 1252(a)(2)(B)(ii) bars relief that would impact where and when to detain Petitioner,
25 should Petitioner be re-detained in the future. *See Van Dinh v. Reno*, 197 F.3d 427, 433–
26 34 (10th Cir. 1999) (citing *Rios-Berrios v. INS*, 776 F.2d 859, 863 (9th Cir. 1985))
27 (finding that judicial review of decision to transfer a detainee is inappropriate due to lack
28 of jurisdiction).

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

18 Moreover, in *Rios-Berrios*, the petitioner was apprehended in California, charged
19 with entry without inspection, and moved to Florida for a deportation hearing that was
20 scheduled to begin effectively five working days from the time of his apprehension. *See*
21 776 F.2d at 860-61. The immigration judge twice continued the hearing for a total of two
22 working days, first after the petitioner stated that he needed time to find an attorney and
23 again after being informed that the petitioner had called a friend who had been in contact
24 with an attorney and bail bondsman. *See id.* After the immigration judge granted the
25 continuances, he also advised that the hearing would proceed with or without counsel.
26 *See id.* When the petitioner appeared without counsel, there was no inquiry regarding the
27 petitioner’s expressed wish to be represented by counsel and the hearing went forward.
28 *See id.* The Ninth Circuit found a violation of the petitioner’s right to be represented by

1 counsel of his own choice at his own expense. *See id.* at 862-63. However, the Ninth
2 Circuit clarified that there was no right to block his transfer to another district:

3 We wish to make ourselves clear. We are not saying that the petitioner should
4 not have been transported to Florida. That is within the province of the
5 Attorney General to decide. We merely say that his transfer there, combined
6 with the unexplained haste in beginning deportation proceedings, combined
7 with the fact of petitioner's incarceration, his inability to speak English, and
8 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.

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

10 Accordingly, judicial intervention is not proper with respect to the government's
11 decision about where to detain Petitioner, even assuming this claim has not been mooted
12 out by his release from immigration custody.

13 **C. Petitioner's Claim Regarding Third Country Removal Is Premature**
14 **and Improper.**

15 As Respondents have previously informed the Court, the government is
16 continuing to take steps to remove Petitioner to a third country. Petitioner's speculation
17 that applicable procedures regarding third country removal will not be followed is
18 insufficient to present a live case or controversy to provide this Court with jurisdiction
19 over his claim regarding third country removal. Indeed, it is improper to prospectively
20 issue an injunction simply requiring the government to follow the law. *See Elend v.*
21 *Basham*, 471 F.3d 1199, 1209 (11th Cir. 2006) (court cannot fashion an injunction that
22 abstractly commands the Secret Service to obey the First Amendment, noting that
23 injunction requiring party to do nothing more specific than 'obey the law' is
24 impermissible."); *E.E.O.C. v. AutoZone, Inc.*, 707 F.3d 824, 841 (7th Cir. 2013) ("An
25 obey-the-law injunction departs from the traditional equitable principle that injunctions
26 should prohibit no more than the violation established in the litigation or similar conduct
27 reasonably related to the violation."); *see, e.g., Lowery v. Circuit City Stores, Inc.*, 158
28 F.3d 742, 767 (4th Cir. 1998) (an "obey the law" injunction "impermissibly subjects a

defendant to contempt proceedings for conduct unlike and unrelated to the violation with which it was originally charged”); *Burton v. City of Belle Glade*, 178 F.3d 1175, 1201 (11th Cir. 1999) (“As this injunction would do no more than instruct the City to ‘obey the law,’ we believe that it would not satisfy the specificity requirements of [Federal Rule of Civil Procedure] 65(d) and that it would be incapable of enforcement.”); *City of New York v. Mickalis Pawn Shop, LLC*, 645 F.3d 114, 144 (2d Cir. 2011) (“[A]n injunction [must] be ‘more specific than a simple command that the defendant obey the law.’”). As the Supreme Court has explained,

The specificity provisions of Rule 65(d) are no mere technical requirements. The Rule was designed to prevent uncertainty and confusion on the part of those faced with injunctive orders, and to avoid the possible founding of a contempt citation on a decree too vague to be understood. Since an injunctive order prohibits conduct under threat of judicial punishment, basic 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 an injunction does not perform this function.

IV. CONCLUSION

Respondents respectfully request that the Court dismiss this Petition.

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Respectfully submitted,

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