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10 **UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

11 Moises Rodas,
12 Petitioner,

13 v.

14 Kristi Noem, et al.,
15 Respondents.

Case No. 2:25-cv-02216-RFB-BNW
**Federal Respondents' Response to
Petitioner's Motion for Preliminary
Injunction, ECF No 9**

16
17 The Federal Respondents hereby submit this Response to Petitioner's Petition for
18 Writ of Habeas Corpus, (ECF No. 1).

19 **I. Introduction**

20 Petitioner challenges the Department of Homeland Security's ("DHS") detention
21 authority, contending that his custody is governed by 8 U.S.C. § 1226(a) rather than §
22 1225(b)(2)(A). This is not a novel question; identical arguments have recently been litigated
23 in parallel proceedings before this Court and other district courts.

24 For the reasons stated below—and as set forth more fully in the government's prior
25 filing in *Daniel Lucero Ortiz v. Michael Bernacke*, et al., No. 2:25-cv-01833-RFB-NJK (D.
26 Nev., October 10, 2025) as incorporated herein—Petitioner fails to demonstrate that he is
27 entitled to the relief he seeks.

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II. Factual and Procedural Background

Petitioner is a native and citizen of El Salvador. ECF No. 8 at ¶13. On an unknown date and unknown place, Petitioner entered the United States without admission, inspection or parole in or around 2001. *See* Exhibit A. Petitioner was taken into custody by DHS on or about October 20, 2025, following his arrest for domestic violence. ECF No. 8 at ¶14.

Petitioner sought a bond redetermination, which was heard on November 3, 2025. *See* Exhibit A. Petitioner's bond redetermination was denied because the IJ found that Petitioner was present in the United States without being admitted after inspection. The IJ found that it lacked jurisdiction to order bond citing *Matter of Yasjure Hurtado*, 29 I&N Dec. 216 (BIA 2025) because Petitioner was present in the United States without admission. *Id.* Petitioner filed an appeal of the IJ's decision to the BIA on November 5, 2025. ECF No. 8 at ¶17.

On November 19, 2025, Petitioner filed an Amended Petition for Writ of Habeas Corpus. ECF No. 8. The same day, he filed an Amended Motion for Preliminary Injunction seeking parole under 8 USC §1226(a)(2)(B) or, in the alternative, to provide him with a bond hearing under 8 USC §1226. ECF No. 9. On November 20, 2025, the Court ordered Respondents to show cause why the Motion for Preliminary Injunction should not be granted. ECF No. 10.

On December 8, 2025, the Court granted Petitioner's Motion for Preliminary Injunction and ordered that Respondents must provide Petitioner with a bond hearing pursuant to 8 U.S.C. 1226(a) no later than December 12, 2025. ECF No. 19.

Consistent with the Court's order, Petitioner was provided a bond hearing with the Immigration Judge on December 10, 2025. At the conclusion of the hearing, the Immigration Judge granted Petitioner release on bond in the amount of \$3,500. *See* ECF No. 20-1. Both parties waived their right to appeal the Immigration Judge's order. Exhibit *Id.* Petitioner was released from custody on December 12, 2025. *See* ECF No. 20.

III. Argument

A. The Petition Is Moot Because Petitioner Has Been Released from Custody

A habeas petition must present a live case or controversy throughout the pendency of the action. When a petitioner is released from custody, the petition becomes moot unless the petitioner demonstrates a continuing, redressable “collateral consequence.” *Abdala v. INS*, 488 F.3d 1061, 1064 (9th Cir. 2007). “Where the grounds for habeas relief will not redress collateral consequences, a habeas petition does not continue to present a live controversy once the petitioner is released from custody.” *Id.*

Here, Petitioner has already received the relief sought in his Petition—release from ICE custody. The Court ordered Petitioner’s release on December 23, 2025, and Petitioner was released the following day. ECF Nos. 16, 17. Because release from detention fully resolves the detention-based claims raised in the Petition, the case is moot. *See Mejia v. Semaia*, 2025 WL 2633165, at *2 (C.D. Cal. 2025) (“[I]f release from custody fully resolves the claims raised in a habeas petition, the claims are indeed moot.”).

Petitioner cannot identify any remaining collateral consequence that this Court could redress through habeas relief. The Petition does not challenge a criminal conviction or a final order of removal, nor does it identify any concrete legal disability that persists following Petitioner’s release. Speculation that DHS might re-detain Petitioner in the future is insufficient to preserve a live controversy. *Alam v. Carter*, 843 F. App’x 953, 954 (9th Cir. 2021) (holding that speculative risk of re-detention does not defeat mootness).

Accordingly, the Petition should be dismissed as moot.

B. Incorporation By Reference of Government’s Prior Response

Federal Respondents hereby incorporate by reference Federal Respondents’ Response to Petitioner’s Petition for Writ of Habeas Corpus in *Daniel Lucero Ortiz v. Michael Bernacke, et al.*, No. 2:25-cv-01833-RFB-NJK (D. Nev., October 10, 2025) (“Lucero Ortiz Response”), as though fully set forth herein.¹ The Lucero Ortiz Response addresses identical

¹ The Court has endorsed the incorporation by reference of prior government filings in related or substantively identical immigration habeas petitions, recognizing the efficiency of unified briefing given the number of overlapping cases presenting identical questions under 8 U.S.C. § 1225(b)(2)(A) and § 1226(a).

1 statutory and constitutional questions regarding DHS's authority to detain individuals
2 under § 1225(b)(2)(A) who are not yet admitted and whose cases remain in pending removal
3 proceedings and any alleged due process violations stemming therefrom.

4 For efficiency and consistency, Respondents adopt the Lucero Ortiz Response in
5 full. The arguments in Sections I, II, and III, of the Lucero Ortiz Response are equally
6 applicable and incorporated by reference. Those sections demonstrate that detention under
7 § 1225(b)(2)(A) is mandatory by statute, not § 1226(a), and that DHS's custody
8 determination and detention therefore complies with both statutory and constitutional
9 requirements.

10 (See Lucero Ortiz Response, ECF No. 7, at 1-10, attached hereto as Exhibit "A" and
11 incorporated herein by reference.)

12 **IV. Conclusion**

13 For the reasons stated herein and in the Lucero Ortiz Response, Petitioner's Petition
14 for Writ of Habeas Corpus should therefore be denied.

15 Respectfully submitted this 26th day of January 2026.

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20 /s/ Summer A. Johnson
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