

United States District Court
Western District of Texas
El Paso Division

Rodrigo Vaca Gomez,
Petitioner,

v.

Kristi Noem, Secretary, United States
Department of Homeland Security, *et. al.*,

Respondents.

3:25-CV-00560-DB

Joint Advisory to the Court

Pursuant to the Court's Order [ECF No. 10], the Parties conferred and now advise the Court whether any matters remain to be resolved. Petitioner filed his petition for a writ of habeas corpus [ECF No. 1], and a motion for a temporary restraining order (TRO) [ECF No. 2]. On November 19, 2025, ICE released Petitioner from custody prior to the hearing on the motion for a TRO. ECF Nos. 8 at 1; 6.

From Respondents: Petitioner's principal prayer for relief was release from custody. ECF No. 1 at 74. The relief Petitioner sought, has already occurred. This Petition is, therefore, moot. *See Bacilio-Sabastian v. Barr*, 980 F.3d 480, 483 (5th Cir. 2020); *Ortez v. Chandler*, 845 F.2d 573, 575 (5th Cir. 1988); *Riley v. I.N.S.*, 310 F.3d 1253, 1257 (10th Cir. 2002); *Virani v. Huron*, 2020 WL 7405655, at *3 (W.D. Tex. Dec. 17, 2020).

From Petitioner: Petitioner's principal prayer for relief, (release from custody), has occurred. That being said, it occurred only after all of the following: (1) the filing of a habeas petition and Motion for a TRO/Mot. for Preliminary Injunction, (2) this Court setting that petition for a TRO hearing, and (3) the government made the decision to release rather than litigate this

matter before this Court last week.¹ Petitioner's fear is that an order of dismissal based on the case being moot will not prevent ICE from re-arresting Mr. Vaca Gomez the moment such an order is entered, claiming such detention is pursuant to § 1225(b)(2)(A), and detaining him without a bond hearing at a different facility in a different district. Accordingly, given the possibility of this issue repeating itself including in Mr. Vaca Gomez' case specifically,² he requests that any order of dismissal either include or be issued after a finding that, unless and until ordered removed, Mr. Vaca Gomez' detention pending § 1229a proceedings is subject to § 1226, and therefore, is only lawful if he is provided a bond hearing. To be clear, Petitioner is hesitant to create any unnecessary work for the Court, government counsel, or undersigned at this point, and only raises this issue as a result of the fact that there is good cause to believe Mr. Vaca Gomez may once again be suddenly detained by ICE unless this issue is addressed. However, Petitioner does not believe additional briefing is necessary to resolve the case.

¹ (See ECF Docket Summary for *Vaca Gomez v. Noem, et. al.*, 3:25-cv-0560-DB.)

² *FEC v. Wis. Right to Life, Inc.*, 551 U.S. 449, 462 (2007).

Respectfully submitted,

Justin R. Simmons
United States Attorney

By: /s/ Anne Marie Cordova

Anne Marie Cordova
Assistant United States Attorney
Texas Bar No. 24073789
601 N.W. Loop 410, Suite 600
San Antonio, Texas 78216
(210) 384-7100 (phone)
(210) 384-7118 (fax)
anne.marie.cordova@usdoj.gov

Attorney for Federal Respondents

AND

/s/ Dan Gividen

Dan Gividen
Attorney for Petitioner
Texas State Bar No. 24075434
18208 Preston Rd., Ste. D9-284
Dallas, TX 75252
972-256-8641
Dan@GividenLaw.com

**signed with permission*