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9 **UNITED STATES DISTRICT COURT**
DISTRICT OF NEVADA

10 JOSE GABRIEL HERNANDEZ
 11 ISIDORO,

12 Petitioners,

13 v.

14 MICHAEL V. BERNACKE, Field Office
 Director, U.S. Immigration and Customs
 Enforcement; JOHN MATTOS, Warden,
 15 Nevada Southern Detention Center;
 KRISTI NOEM, Secretary, U.S.
 16 Department, of Homeland Security;
 RODNEY S. SCOTT, Commissioner, U.S.
 17 Customs and Border Protection; and
 PAMELA BONDI, Attorney General of the
 18 United States,

19 Respondents.

Case No. 2:25-cv-02312-RFB-NJK

**Federal Respondents' Motion to
 Dismiss the Petition and Response to
 the Petition**

20 **I. Introduction**

21 Federal Respondents respectfully move to dismiss the Petition for Writ of Habeas
 22 Corpus (ECF No. 1) because it is moot and, independently, because it fails to carry
 23 Petitioner's burden of proof under 28 U.S.C. § 2241. The sole relief sought in the Petition—
 24 an order requiring a bond hearing or release—has already been provided pursuant to the
 25 Court's Order granting preliminary injunctive relief (ECF No. 10). Petitioner received a
 26 bond hearing on December 10, 2025, and was released on bond thereafter, as certified in
 27 Federal Respondents' Status Report (ECF No. 12).

28

1 Even if the Petition were not moot, it should be dismissed because it is supported
2 only by attorney argument and conclusory allegations, rather than competent evidence
3 sufficient to establish unlawful custody. Finally, and in the alternative, if the Court elects
4 not to dismiss the Petition, the Court should deny it on the merits because—even accepting
5 the allegations in the Petition as true—Petitioner cannot demonstrate entitlement to habeas
6 relief under governing statutory and constitutional principles, for the same reasons
7 addressed in materially indistinguishable cases, including *Jacobo Ramirez v. Noem*, Case No.
8 2:25-cv-02136-RFB-MDC (D. Nev. Oct. 30, 2025) (attached herein as Exhibit A) and
9 *Morales Rondon v. Bernacke*, Case No. 2:25-cv-01979-RFB-BNW (D. Nev. Oct. 15, 2025)
10 (attached herein as Exhibit B).

11 The Federal Respondents are amenable to receiving a ruling on the papers and are
12 willing to waive a hearing.

13 **II. Background**

14 Petitioner filed this habeas Petition challenging his immigration detention and
15 seeking a bond hearing or release. On December 8, 2025, the Court granted preliminary
16 injunctive relief and ordered that Petitioner receive a bond hearing by a date certain (ECF
17 No. 10). Federal Respondents complied with the Court's Order. On December 10, 2025, an
18 Immigration Judge conducted a bond hearing and ordered Petitioner released on bond.
19 Federal Respondents notified the Court of compliance. *See* ECF No. 12.

20 Petitioner is no longer detained. There is no ongoing custody that this Court can
21 remedy through habeas relief.

22 **III. Argument**

23 **A. The Petition Is Moot**

24 Article III limits federal courts to adjudicating live cases or controversies. A habeas
25 petition becomes moot when the petitioner has obtained the relief sought and there is no
26 longer a concrete injury that can be redressed by the court.

27 Here, the Petition sought a bond hearing or release from custody. That relief has
28 already been afforded pursuant to the Court's Order. Petitioner received a bond hearing

1 and was released from ICE custody. Because Petitioner is no longer detained, there is no
2 effective relief that this Court can grant under § 2241, and the Petition must be dismissed as
3 moot.

4 Petitioner cannot avoid mootness by speculative assertions that he could be re-
5 detained in the future. Such conjecture does not preserve a live controversy where the
6 challenged detention has already ended and no collateral consequences are alleged or
7 shown.

8 **B. The Petition Independently Fails Because Petitioner Did Not Carry His Burden of**
9 **Proof**

10 Even if the Petition were not moot, dismissal is warranted because Petitioner failed
11 to meet his burden to demonstrate that his detention was unlawful. In a habeas proceeding,
12 the burden rests with the petitioner to establish that custody violates the Constitution, laws,
13 or treaties of the United States.

14 The Petition relies primarily on attorney argument, policy disagreement, and
15 generalized assertions regarding detention authority. It does not present competent
16 evidence establishing that Federal Respondents lacked statutory authority to detain
17 Petitioner or that the detention violated due process. Conclusory allegations and legal
18 rhetoric are insufficient to sustain habeas relief. On this independent basis, the Petition
19 should be dismissed.

20 **C. In the Alternative, the Petition Should Be Denied on the Merits**

21 If the Court declines to dismiss the Petition as moot or for failure of proof, the Court
22 should deny it on the merits. Even assuming arguendo that the bare attorney argument and
23 allegations presented in the Petition are true, Petitioner cannot establish entitlement to
24 relief. The statutory and constitutional arguments advanced in the Petition have been
25 litigated in other cases before this Court and in other districts.

26 Federal Respondents hereby thus incorporate by reference the Federal Respondents'
27 Responses in *Jacobo Ramirez v. Noem*, Case No. 2:25-cv-02136-RFB-MDC (D. Nev. Oct. 30,
28 2025) (attached herein as Exhibit A) and *Morales Rondon v. Bernacke*, Case No. 2:25-cv-

1 01979-RFB-BNW (D. Nev. Oct. 15, 2025) (attached herein as Exhibit B), as though fully
2 set forth herein.¹ The *Jacobo Ramirez* and *Morales Rondon* Responses address substantially
3 the same questions at issue in the case at bar regarding DHS’s authority to detain individuals
4 under § 1225(b)(2)(A) who are not yet admitted and whose cases remain in pending removal
5 proceedings.

6 For efficiency and consistency, Federal Respondents adopt the *Jacobo Ramirez* and
7 *Morales Rondon* Responses in full. As the responses demonstrate, Petitioner’s lawful
8 detention under § 1225(b)(2)(A) is mandatory by statute. Further, as the responses
9 demonstrate, the Court lacks jurisdiction to adjudicate this matter.

10 **D. Growing Body of Well-Reasoned and Persuasive Authority Supports the Federal**
11 **Respondents’ Legal Positions**

12 In addition to the arguments set forth in the responses incorporated here, the United
13 States notes the following decisions that have found that, when the law is properly
14 interpreted and applied, the law supports the Federal Respondents’ positions in the case at
15 bar: *Pena v. Hyde*, No. 25-11983, 2025 WL 2108913 (D. Mass. July 28, 2025); *Chavez v.*
16 *Noem*, No. 25-02325, 2025 WL 2730228 (S.D. Cal. Sept. 24, 2025); *Vargas Lopez v. Trump*,
17 No. 25-526, 2025 WL 2780351 (D. Neb. Sept. 30, 2025); *Barrios Sandoval v. Acuna*, No. 25-
18 01467, 2025 WL 3048926 (W.D. La. Oct. 31, 2025); *Silva Oliveira v. Patterson*, No. 25-01463,
19 2025 WL 3095972 (W.D. La. Nov. 4, 2025); *Mejia Olalde v. Noem*, No. 25-00168, 2025 WL
20 3131942 (E.D. Mo. Nov. 10, 2025). As *Mejia Olalde* observes, “the overwhelming majority
21 of district courts sometimes get the law very wrong,” and the decisions cited here underscore
22 that this Court now has a meaningful opportunity to revisit its prior interpretation with the
23 benefit of a growing body of well-reasoned and persuasive authority.

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28 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).

IV. Conclusion

For the foregoing reasons, Federal Respondents respectfully request that the Court dismiss the Petition as moot. In the alternative, the Court should dismiss the Petition for failure to carry the burden of proof, or deny the Petition on the merits.

Respectfully submitted this 22nd day of January 2026.

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