

1 TODD BLANCHE  
Deputy Attorney General of the United States  
2 SIGAL CHATTAH  
First Assistant United States Attorney  
3 District of Nevada  
Nevada Bar Number 8264

4 SUMMER A. JOHNSON  
5 Assistant United States Attorney  
501 Las Vegas Blvd. So., Suite 1100  
6 Las Vegas, Nevada 89101  
Phone: (702) 388-6336  
7 Fax: (702) 388-6787  
Summer.Johnson@usdoj.gov

8 *Attorneys for the Federal Respondents*

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

11 FLORENCIO PADILLA PEREZ,

12 Petitioner,

13 v.

14 KRISTI NOEM, in her official capacity as  
Secretary of the Department of Homeland  
15 Security (DHS); TODD LYONS, in his  
official capacity as Acting Director of  
16 Immigration and Customs Enforcement  
(ICE); FIELD OFFICE DIRECTOR, for  
17 Immigration and Customs Enforcement  
(ICE) for Southern Nevada; JOHN  
18 MATTOS, in his official capacity as Warden  
of the Nevada Southern Detention Center;  
19 PAMELA BONDI, in her official capacity  
as the United States Attorney General; THE  
20 EXECUTIVE OFFICE FOR  
IMMIGRATION REVIEW; UNITED  
21 STATES IMMIGRATION AND  
CUSTOMS ENFORCEMENT (ICE),

22 Respondents.  
23

Case No. 2:25-cv-02399-RFB-DJA

**Federal Respondents' Response to  
Petitioner's Petition for Writ of Habeas  
Corpus, ECF No. 1**

24 **I. Introduction**

25 The Federal Respondents hereby submit this Response to Petitioner's Petition for  
26 Writ of Habeas Corpus, ECF No. 1. Petitioner filed this habeas action and accompanying  
27 request for emergency relief challenging his detention by Immigration and Customs  
28

1 Enforcement. Since that time, the Court granted Petitioner’s motion for preliminary  
2 injunction and ordered his release from custody, and Petitioner was released on December  
3 24, 2025. As a result, Petitioner has already received the only relief sought in the  
4 Petition—release from detention—and the Petition no longer presents a live case or  
5 controversy.

6 Even if the Court were to reach the merits, Petitioner cannot prevail. The  
7 timeliness of the Department of Homeland Security’s administrative appeal is committed  
8 in the first instance to the Board of Immigration Appeals and, if appropriate, the court of  
9 appeals, not this Court. For these reasons, and as set forth below, the Petition for Writ of  
10 Habeas Corpus should be dismissed.

11 Federal Respondents waive oral argument related to this pleading.

## 12 **II. Statement of Facts and Procedural History**

13 Petitioner was detained in Immigration and Customs Enforcement (“ICE”) custody  
14 at the Nevada Southern Detention Center in Pahrump, Nevada, pending removal  
15 proceedings. ECF No. 1 ¶ 1. He had been in ICE custody since August 4, 2025. *Id.* ¶ 2.

16 In September 2025, an Immigration Judge (“IJ”) initially granted Petitioner bond in  
17 the amount of \$2,500. *Id.* ¶ 3. Following that decision, the Department of Homeland  
18 Security (“DHS”) sought reconsideration. The IJ thereafter reversed the bond  
19 determination, concluding that the immigration court lacked jurisdiction to grant bond  
20 under *Matter of Yajure-Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). *Id.* ¶¶ 4–5.

21 In October 2025, an IJ issued an order granting Petitioner’s application for  
22 cancellation of removal. *Id.* ¶ 7. DHS filed a notice of appeal with the Board of Immigration  
23 Appeals (“BIA”) within thirty days of the IJ’s decision. *See* ECF Nos. 12-1, 12-2.<sup>1</sup>

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26 <sup>1</sup> Petitioner disputes the timeliness of DHS’s administrative appeal. DHS maintains that the record  
27 conclusively establishes that the appeal was timely filed, as reflected in ECF Nos. 12-1 and 12-2. As  
28 set forth below, however, any dispute regarding the timeliness of the appeal does not provide a basis  
for relief in this action because Petitioner has since been released from custody, rendering the habeas  
petition moot.

1 On December 3, 2025, Petitioner filed the instant Petition for Writ of Habeas  
2 Corpus. ECF No. 1. On December 9, 2025, Petitioner filed a Motion for Preliminary  
3 Injunction. ECF No. 4.

4 In his Petition and motion for injunctive relief, Petitioner contended that his  
5 continued detention was unlawful for two reasons. First, he asserted that DHS's appeal of  
6 the IJ's cancellation decision was untimely, rendering the IJ's decision final. Second, he  
7 argued that mandatory detention under 8 U.S.C. § 1225(b)(2)(A) did not apply to him  
8 because he previously entered and resided in the United States, and that he therefore was  
9 subject to detention under 8 U.S.C. § 1226(a), which permits release on bond or conditional  
10 parole. ECF No. 1 at 12–16. Petitioner requested that the Court order his immediate release  
11 without bond or conditions. ECF No. 4 at 10.

12 On December 23, 2025, the Court granted Petitioner's Motion for Preliminary  
13 Injunction. ECF No. 16. The Court ordered Respondents to release Petitioner from custody,  
14 subject to the conditions previously imposed by the Immigration Judge, no later than  
15 December 24, 2025. *Id.* Petitioner was released from ICE custody on December 24, 2025.  
16 ECF No. 17.

17 Pursuant to the parties' proposed briefing schedule, and in light of the January 19,  
18 2026 federal holiday, Federal Respondents' merits response to the Petition for Writ of  
19 Habeas Corpus is due today. See Fed. R. Civ. P. 6.

### 20 **III. Legal Argument**

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

22 A habeas petition must present a live case or controversy throughout the pendency of  
23 the action. When a petitioner is released from custody, the petition becomes moot unless the  
24 petitioner demonstrates a continuing, redressable "collateral consequence." *Abdala v. INS*,  
25 488 F.3d 1061, 1064 (9th Cir. 2007). "Where the grounds for habeas relief will not redress  
26 collateral consequences, a habeas petition does not continue to present a live controversy  
27 once the petitioner is released from custody." *Id.*

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

7 Petitioner cannot identify any remaining collateral consequence that this Court could  
8 redress through habeas relief. The Petition does not challenge a criminal conviction or a  
9 final order of removal, nor does it identify any concrete legal disability that persists  
10 following Petitioner’s release. Speculation that DHS might re-detain Petitioner in the future  
11 is insufficient to preserve a live controversy. *Alam v. Carter*, 843 F. App’x 953, 954 (9th Cir.  
12 2021) (holding that speculative risk of re-detention does not defeat mootness).

13 Accordingly, the Petition should be dismissed as moot.

14 **B. The Timeliness of DHS’s Appeal Is Moot and Outside This Court’s**  
15 **Jurisdiction**

16 Petitioner’s principal merits argument—that DHS’s appeal of the Immigration  
17 Judge’s cancellation decision was untimely and therefore cannot justify his detention—fails  
18 on two independent grounds. First, Petitioner is no longer detained, rendering this  
19 argument moot as a basis for habeas relief. Second, the timeliness of DHS’s administrative  
20 appeal does not fall within the jurisdiction of this Court.

21 Under the governing regulations, the determination whether an appeal was timely  
22 filed is committed to the Board of Immigration Appeals in the first instance. See 8 C.F.R.  
23 §§ 1003.38(b)–(c), 1003.3(a)(2). The BIA may summarily dismiss an appeal it finds  
24 untimely. 8 C.F.R. § 1003.1(d)(2)(i)(G). If the BIA determines that DHS’s appeal was  
25 timely, any challenge to that determination lies exclusively in the court of appeals through  
26 a petition for review—not in district court. See 8 U.S.C. § 1252(a)(5).

