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United States District Court
Central District of California

Asghar Payman Farsi, Petitioner, v. Kristi Noem, et al. Respondents.	No. 5:25-cv-03275-WLH-MBK **Joint Status Report** Honorable Wesley L. Hsu United States District Judge

1 Petitioner Asghar Payman Farsi and Respondents Kristi Noem, in
2 her official capacity as Secretary of Homeland Security, Pamela J. Bondi,
3 in her official capacity as Attorney General of the United States, Thomas
4 Giles, in his official capacity as Los Angeles Field Office Director, Bureau
5 of Immigration and Customs Enforcement, James Pilkington, in his
6 official capacity as Assistant Field Office Director, Los Angeles Field
7 Office, Bureau of Immigration and Customs Enforcement, and "Warden,
8 Geo Group, Inc., Desert View Facility" (collectively, "Respondents"),
9 through their counsels of record, jointly submit this status report in
10 response to the Court's Order Re Petitioner's Application For A
11 Preliminary Injunction Order, dated December 19, 2025 (Dkt. 15).
12 Petitioner was released on or about December 10, 2025, the day this
13 Court issued a temporary restraining order directing that he be released
14 (Dkt. 10). He has not been re-detained. The parties agree that
15 Respondents are in compliance with this Court's preliminary injunction.
16 The parties state their respective positions on mootness below.
17 **A. Petitioner's Position on Mootness**
18 Petitioner's release does not render his habeas petition moot. If the
19 case were dismissed as moot, this Court's preliminary injunction would
20 no longer be in force, leaving nothing to restrain the Government from
21 once again unconstitutionally detaining Petitioner. In *Nielsen v. Preap*,
22 the Supreme Court found the case was not moot where the plaintiffs
23 challenging their immigration detention were released pursuant to a
24 preliminary injunction because "[u]nless that preliminary injunction was
25 made permanent and was not disturbed on appeal, these individuals
26 faced the threat of re-arrest and mandatory detention." 586 U.S. 392, 403

1 (2019). The same is true here. Similarly, the Ninth Circuit has made
2 clear that a petitioner's release from custody, or even deportation, does
3 not automatically render a case moot. *Abdala v. I.N.S.*, 488 F.3d 1061,
4 1064 (9th Cir. 2007). Because Petitioner could be re-detained absent the
5 Court's injunction, he still has "a legally cognizable interest" in the
6 outcome of his petition. *Porter v. Jones*, 319 F.3d 483, 489 (9th Cir. 2003).
7 Indeed, the government's mootness argument is foreclosed by
8 *Rodriguez v. Hayes*, 591 F.3d 1105, 1117-18 (9th Cir. 2010) (abrogated on
9 other grounds by *Rodriguez Diaz v. Garland*, 53 F.4th 1189 (9th Cir.
10 2022)). In *Rodriguez*, Petitioner Rodriguez and a class of aliens detained
11 during immigration proceedings for more than six months without bond
12 hearings sought injunctive and declaratory relief providing bond
13 hearings. The district court denied relief in a conclusory order, and the
14 government attempted to defend the order on appeal. One of the
15 government's arguments was that class certification was appropriately
16 denied because Rodriguez's individual claim had been mooted by his
17 release from detention. *Id.* at 1117. The Ninth Circuit explained that
18 mootness is not a basis to deny class certification, but could be a basis for
19 dismissing Rodriguez's petition. But, the Ninth Circuit explained, had
20 that been the district court's basis for denying relief, it would have been
21 error. *Id.*
22 The Court then explained two rationales for why release did not
23 moot the petition. First, Rodriguez's release placed him in a different
24 position than he would have been in had he been granted relief.
25 Specifically, when released, Rodriguez could have been taken back into
26 custody for any reason. But, if granted relief, he could only be taken into

1 custody if he violated his conditions of release or his detention became
2 necessary to effectuate his removal. *Id.* (quoting *Clark v. Martinez*, 543
3 U.S. 371 (2005)). So to here, the preliminary injunction order keeps Farsi
4 out of custody temporarily. If his petition is dismissed, the government
5 can presumably take him back into custody at any time after the
6 temporary restraining order expires. If, however, the petition is granted,
7 then the government is limited by its rules and regulations as in *Clark*.
8 Granting relief thus places Farsi in a position far different than his
9 current one: released pursuant to a preliminary injunction and thus
10 subject to the government's will versus back on supervision with all
11 protection of the law. Like the petitioners in *Rodriguez* and *Clark*,
12 "Petitioner here retains a personal stake in the determination of his claim
13 such that it is not moot." *Id.* at 1117-1118.

14 Second, and more simply, when Farsi was released pursuant to the
15 TRO, ICE imposed a series of new conditions upon him including wearing
16 an ankle monitor and submitting to home visits. "The strict limitations
17 on Petitioner's freedom, therefore, provide an additional reason why his
18 case presents a live controversy." *Rodriguez*, 591 F.3d at 1118 (citing
19 *Carafas v. LaVallee*, 391 U.S. 234, 238 (1968)).

20 Even if the issuance of a preliminary injunction could be enough to
21 moot the case, that would not be the end of the analysis. Instead, courts
22 then consider whether the claims in the petition meet one of the
23 exceptions to the mootness doctrine. One exception to the mootness
24 doctrine exists where an action is "capable of repetition, yet evading
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26

review."[1] *So. Pac. Terminal Co. v. Interstate Commerce Comm'n*, 219 U.S. 498, 515 (1911). In *United States. v. Bandau*, for example, the Ninth Circuit remanded a case to determine whether this exception applied to the litigants' challenge to a shackling policy—even though the policy had been officially rescinded. 578 F.3d 1064, 1068 (9th Cir. 2009). Remand was necessary, because "anecdotal information strongly suggest[ed]" that the policy was, in fact, ongoing. *Id.*

Here, the facts suggest that dismissal on mootness grounds would set up a cycle in which Petitioner could be repeatedly detained in an unconstitutional manner, released pursuant to a new preliminary injunction, then re-detained once the preliminary injunction again rendered his claims moot. Respondents opposed the issuance of a preliminary injunction, arguing that Petitioner's detention was constitutional (Dkt. 9), and have not indicated that position has changed or provided assurances that Petitioner will not be re-detained. *See Picrin-Peron v. Rison*, 930 F.2d 773, 776 (9th Cir. 1991) (finding petition to be moot where petitioner had been released from custody and where the director of an immigration office signed a declaration under oath assuring that the petitioner would remain released from custody and on parole absent a change in circumstances). There is also no indication that ICE has changed its policies or practices to comply with constitutional requirements as interpreted by this Court and many others in this

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[1] Another exception, the voluntary cessation exception, is inapposite here. The Government did not voluntarily release Petitioner—it did so only after this Court ordered it to. Even if Petitioner had been voluntarily released, Respondent would still bear "[t]he heavy burden of persuading the court that the challenged conduct cannot reasonably be expected to start up again." *Friends of the Earth, Inc. v. Laidlaw Environmental Services (TOC), Inc.*, 528 U.S. 167, 189 (2000).

district. *See, e.g.*, *Luu v. Bowen*, No. 5:25-cv-03145, 2025 WL 3552298 (C.D. Cal. Dec. 11, 2025); *Esmail v. Noem*, No. 2:25-cv-08325-WLH-RAO, 2025 WL 3030590 (C.D. Cal., Sept. 12, 2025). If Petitioner's claims are dismissed as moot, there is a grave risk that the same violations would occur again and evade judicial review.

Finally, a preliminary injunction is by nature a temporary remedy, intended "to preserve the relative positions of the parties until a trial on the merits can be held." *Univ. of Texas v. Camenisch*, 451 U.S. 390, 395 (1981). To now find the case moot when Respondents have not conceded the unconstitutionality of Petitioner's detention would render the Court's order more akin to a final judgment on the merits, which is generally inappropriate at the preliminary injunction stage. *See id.*

B. Respondents' Position on Mootness

Mootness is a threshold issue because the existence of a live case or controversy is a constitutional prerequisite to federal court jurisdiction. *See Alvarez v. Smith*, 558 U.S. 87, 130 S.Ct. 576, 580 (2009). "To invoke the jurisdiction of a federal court, a litigant must have suffered, or be threatened with, an actual injury traceable to the defendant and likely to be redressed by a favorable judicial decision." *See Lewis v. Cont'l Bank Corp.*, 494 U.S. 472, 477 (1990). At all stages of the case, the parties must have a "personal stake in the outcome" of the lawsuit. *See Spencer v. Kenma*, 523 U.S. 1, 7 (1998) (quoting *Lewis*, 494 U.S. at 477-78). Federal courts have no authority to give an opinion upon a question that is moot as a result of events that occur during the pendency of the action. *See Church of Scientology v. United States*, 506 U.S. 9, 12 (1992).

Here, Petitioner's habeas claims are now moot because he already received the full relief sought, and no live Article III controversy remains.

Petitioner was released from Department of Homeland Security ("DHS") custody on December 10, 2025, in full compliance with the Court's first Temporary Restraining Order ("TRO"). *See* Dkt. 10. The Court afterward issued a second TRO on December 19, 2025, enjoining further detention absent the provision of due process required to revoke an Order of Supervision ("OSUP"). *See* Dkt. 15. DHS has complied with both orders, and Petitioner remains non-detained.

Critically, Petitioner does not challenge any ongoing detention, nor could he: he is no longer detained. Because "It is clear . . . 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," and that relief has been granted, the Court can no longer provide any effective habeas relief. *See Preiser v. Rodriguez,* 411 U.S. 475, 484 (1973). Accordingly, the case no longer presents a live controversy within the meaning of Article III.

Nor does any exception to mootness apply. Petitioner's release was not voluntary cessation of challenged conduct, but occurred pursuant to the Court's binding orders, which DHS has fully complied with. The "voluntary cessation" doctrine provides Petitioner no recourse because there is no indication that the Respondents have released him with the intention of later revoking that release, simply to evade review. *See City News & Novelty, Inc. v. City of Waukesha*, 531 U.S. 278, 284 n. 1 (2001).

There is no expectation that Petitioner will be re-detained absent new and independent circumstances, and speculation about future enforcement action is insufficient to preserve jurisdiction. The possibility of recurrence must be more than theoretical to keep an otherwise moot action alive. *See Murphy v. Hunt*, 455 U.S. 478, 482-83 (1982); *see also Whitmore v. Arkansas*, 495 U.S. 149, 158 (1990) (A "threatened injury must be 'certainly

impending' to constitute injury in fact.") (quoting *Babbitt v. Farm Workers*, 442 U.S. 289, 298 (1979)); *Moises Salomon Zaragoza Mosqueda v. Kristi Noem et al.*, 5:25-cv-002304-CAS-BFM, Dkt. no. 15 (September 17, 2025 minute order by Hon. Judge Snyder, denying preliminary injunction and issuing OSC re dismissal for mootness given the petitioners' receipt of immigration bond hearings); *Coc Tut v. Kristi Noem*, 5:25-cv-02701-DOC (October 30, 2025 order denying preliminary injunction as moot and issuing OSC re: dismissal where bond hearings were provided to detainees pursuant to TRO); *J.P. v. Santacruz*, No. 8:25-CV-01640-FWS-JC, 2025 WL 2998305, at *4 (C.D. Cal. Oct. 24, 2025) (petitioner "fail[ed] to sufficiently allege an injury or threat of injury because the event giving rise to the Petition has passed and Petitioner's alleged threat of future injury is too speculative and unripe").

At this time, Petitioner has not provided the Court with concrete facts to suggest that Respondents will impose additional restrictions on his liberty, or that the current ATD conditions violate federal law. An alien's release from post-removal detention "may and should be conditioned on any of the various forms of supervised release that are appropriate in the circumstances, and the alien may no doubt be returned to custody upon a violation of those conditions." *See Zadvydas v. Davis*, 533 U.S. at 679-700 (2001); *see also Id.* at 695 ("[W]e nowhere deny the right of Congress . . . to subject [aliens] to supervision with conditions when released from detention, or to incarcerate them where appropriate for violations of those conditions"); 8 U.S.C. § 1231(a)(3), (6) (aliens who are not detained beyond the 90-day removal period may be released subject to terms of supervision).

Furthermore, Petitioner does not allege that DHS has threatened to change the terms of the OSUP and does not state specific facts demonstrating that DHS has a pattern, practice or policy of unilaterally

1 revising the terms of OSUP. Purely speculative harm is insufficient to
2 support an award of injunctive relief. *See Murphy v. Hunt*, 455 U.S. 478,
3 482-83 (1982); *see also Whitmore v. Arkansas*, 495 U.S. 149, 158 (1990) (A
4 "threatened injury must be 'certainly impending' to constitute injury in
5 fact.") (quoting *Babbitt v. Farm Workers*, 442 U.S. 289, 298 (1979)).
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The Court should find that Petitioner's release from detention pursuant to OSUP moots his § 2241 habeas petition. The Court is not able to provide Petitioner any meaningful relief at this time. If Petitioner's supervised release is revoked and he is once again detained pending removal, he may challenge the detention in a new § 2241 habeas petition.

Respectfully submitted,

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Dated: January 2, 2026

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