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9 **United States District Court**
10 **Central District of California**

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11 Hossein Joudi-Haghighi

12 Petitioner,

13 v.

14 Kristi Noem, et al.

15 Respondents.

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No. 5:25-cv-3315-SSS-MAA

**PETITIONER’S REPLY IN
SUPPORT OF MOTION FOR
PRELIMINARY INJUNCTION**

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19 Per the Court’s December 12, 2025 Order, Petitioner hereby files
20 his reply in support of his previously filed motion for preliminary
21 injunction.

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1 **I. Argument**

2 In response to the Court’s issuance of a temporary restraining order
3 in this matter and an order to show cause why a preliminary injunction
4 should not issue, Respondent advances a single argument: Joudi-
5 Haghighi’s release from custody moots his federal habeas petition and
6 need for a preliminary injunction. Neither the facts nor the law support
7 Respondent’s position.

8 Petitioner’s release does not render his habeas petition moot. If the
9 case were dismissed as moot, this Court’s temporary restraining order
10 would no longer be in force, leaving nothing to restrain the Government
11 from once again unconstitutionally detaining Petitioner. In *Nielsen v.*
12 *Preap*, the Supreme Court found the case was not moot where the
13 plaintiffs challenging their immigration detention were released
14 pursuant to a preliminary injunction because “[u]nless that preliminary
15 injunction was made permanent and was not disturbed on appeal, these
16 individuals faced the threat of re-arrest and mandatory detention.” 586
17 U.S. 392, 403 (2019). The same is true here. Similarly, the Ninth Circuit
18 has made clear that a petitioner’s release from custody, or even
19 deportation, does not automatically render a case moot. *Abdala v. I.N.S.*,
20 488 F.3d 1061, 1064 (9th Cir. 2007). Because Petitioner could be re-
21 detained absent the Court’s injunction, he still has “a legally cognizable
22 interest” in the outcome of his petition. *Porter v. Jones*, 319 F.3d 483, 489
23 (9th Cir. 2003).

24 Indeed, the government’s mootness argument is foreclosed by
25 *Rodriguez v. Hayes*, 591 F.3d 1105, 1117-18 (9th Cir. 2010) (abrogated on
26 other grounds by *Rodriguez Diaz v. Garland*, 53 F.4th 1189 (9th Cir.

1 2022)). In *Rodriguez*, Petitioner Rodriguez and a class of aliens detained
2 during immigration proceedings for more than six months without bond
3 hearings sought injunctive and declaratory relief providing bond
4 hearings. The district court denied relief in a conclusory order, and the
5 government attempted to defend the order on appeal. One of the
6 government's arguments was that class certification was appropriately
7 denied because Rodriguez's individual claim had been mooted by his
8 release from detention. *Id.* at 1117. The Ninth Circuit explained that
9 mootness is not a basis to deny class certification, but could be a basis for
10 dismissing Rodriguez's petition. But, the Ninth Circuit explained, had
11 that been the district court's basis for denying relief, it would have been
12 error. *Id.*

13 The *Rodriguez* Court then explained two rationales for why release
14 did not moot the petition. First, Rodriguez's release placed him in a
15 different position than he would have been in had he been granted relief.
16 Specifically, when released, Rodriguez could have been taken back into
17 custody for any reason. But, if granted relief, he could only be taken into
18 custody if he violated his conditions of release or his detention became
19 necessary to effectuate his removal. *Id.* (quoting *Clark v. Martinez*, 543
20 U.S. 371 (2005)). So to here, the temporary restraining order keeps
21 Joudi-Haghighi out of custody temporarily. If his petition is dismissed,
22 the government can presumably take him back into custody at any time
23 after the temporary restraining order expires. If, however, the petition is
24 granted, then the government is limited by its rules and regulations as in
25 *Clark*. Granting relief thus places Joudi-Haghighi in a position far
26 different than his current one: released pursuant to a preliminary

1 injunction and thus subject to the government’s will versus back on
2 supervision with all protection of the law. Like the petitioners in
3 *Rodriguez* and *Clark*, “Petitioner here retains a personal stake in the
4 determination of his claim such that it is not moot.” *Id.* at 1117-1118.

5 Second, and more simply, when Joudi-Haghighi was released
6 pursuant to the TRO, ICE imposed a series of new conditions upon him
7 including wearing an ankle monitor. “The strict limitations on
8 Petitioner’s freedom, therefore, provide an additional reason why his case
9 presents a live controversy.” *Rodriguez*, 591 F.3d at 1118 (citing *Carafas*
10 *v. LaVallee*, 391 U.S. 234, 238 (1968)).

11 Even if the issuance of a preliminary injunction could be enough to
12 moot the case, that would not be the end of the analysis. Instead, courts
13 then consider whether the claims in the petition meet one of the
14 exceptions to the mootness doctrine. One exception to the mootness
15 doctrine exists where an action is “capable of repetition, yet evading
16 review.”¹ *So. Pac. Terminal Co. v. Interstate Commerce Comm’n*, 219 U.S.
17 498, 515 (1911). In *United States v. Bandau*, for example, the Ninth
18 Circuit remanded a case to determine whether this exception applied to
19 the litigants’ challenge to a shackling policy—even though the policy had
20 been officially rescinded. 578 F.3d 1064, 1068 (9th Cir. 2009). Remand
21 was necessary, because “anecdotal information strongly suggest[ed]” that
22 the policy was, in fact, ongoing. *Id.*

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24 ¹ Another exception, the voluntary cessation exception, is inapposite
25 here. The Government did not voluntarily release Petitioner—it did so only
26 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).

1 Here, the facts suggest that dismissal on mootness grounds would
2 set up a cycle in which Petitioner could be repeatedly detained in an
3 unconstitutional manner, released pursuant to a new temporary
4 restraining order, then re-detained once the temporary restraining order
5 again rendered his claims moot. Respondents opposed the issuance of a
6 temporary restraining order, arguing that Petitioner's detention was
7 constitutional (Dkt. 9), and have not indicated that position has changed
8 or provided assurances that Petitioner will not be re-detained. *See Picrin-*
9 *Peron v. Rison*, 930 F.2d 773, 776 (9th Cir. 1991) (finding petition to be
10 moot where petitioner had been released from custody and where the
11 director of an immigration office signed a declaration under oath assuring
12 that the petitioner would remain released from custody and on parole
13 absent a change in circumstances). There is also no indication that ICE
14 has changed its policies or practices to comply with constitutional
15 requirements as interpreted by this Court and many others in this
16 district. *See, e.g., Luu v. Bowen*, No. 5:25-cv-03145, 2025 WL 3552298
17 (C.D. Cal. Dec. 11, 2025); *Esmail v. Noem*, No. 2:25-cv-08325-WLH-RAO,
18 2025 WL 3030590 (C.D. Cal., Sept. 12, 2025). If Petitioner's claims are
19 dismissed as moot, there is a grave risk that the same violations would
20 occur again and evade judicial review.

21 Finally, a temporary restraining order is by nature a temporary
22 remedy, intended "to preserve the relative positions of the parties until a
23 trial on the merits can be held." *Univ. of Texas v. Camenisch*, 451 U.S.
24 390, 395 (1981). To now find the case moot when Respondents have not
25 conceded the unconstitutionality of Petitioner's detention would render
26 the Court's order more akin to a final judgment on the merits, which is

1 generally inappropriate at the temporary restraining order and
2 preliminary injunction stage. *See id.*

3 **II. Conclusion**

4 For the foregoing reasons, and those detailed in the pending
5 petition for writ of habeas corpus and application for temporary
6 restraining order (dkt. no. 1, 3), Petitioner respectfully requests that the
7 Court grant his motion for preliminary injunction.

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9 Respectfully submitted,
10 Cuauhtemoc Ortega
11 Federal Public Defender

12 Dated: January 5, 2026

13 By: /s/
Jonathan C. Aminoff
Deputy Federal Public Defender

14 Attorneys for Petitioner
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