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8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA

10
11 SOMCHETH SAM YOK,
12 Petitioner,
13 v.
14 DAVID MARIN, *et al.*,
15 Respondents.
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Case No. 5:25-cv-03377-MWF-MAA

**REPLY TO RESPONDENTS'
ANSWER AND RESPONSE TO
ORDER TO SHOW CAUSE
REGARDING PRELIMINARY
INJUNCTION**

Honorable Michael W. Fitzgerald
United States District Judge

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I. INTRODUCTION

The Government does not dispute it has illegally detained Petitioner Somcheth Sam Yok in violation of *Zadvydas v. Davis*, 533 U.S.678 (2001). *See* Dkt. 13 at 2 (“At this time, Respondents do not have an opposition argument that they are able to present.”). As a result, this Court on January 8 issued a temporary restraining order (TRO) directing the Government to release Yok and enjoining it from “retaining [Yok] unless” it “obtained a legal travel document for him.” Dkt. 15 at 9. Given that the Government does not dispute the legal merit of Yok’s petition, the next logical step is for this Court to grant the petition and make the TRO permanent.

But instead of recognizing this, the Government now bizarrely argues the petition is moot because “the alleged injury—the detention itself—has ended” and “[Yok] has already obtained the complete relief sought in his Petition.” Dkt. 18 at 2-3.

Not so. Yok’s release does not moot this matter because the remedy he is seeking is broader than mere release. Because he remains at risk of re-detention, Yok has *also* requested that the Court “enjoin the immigration authorities from continu[ing] [to] harass Petitioner and forbid them [from] re-detain[ing] Petitioner unless they have obtained a legal travel document.” *See* Dkt. 11 at 9. For this very reason, this Court’s TRO specifically barred the Government from detaining Yok again without a “legal travel document.” Dkt. 15 at 9.

This is not an abstract concern: the Government has shown it can and will detain Yok regardless of whether it can actually deport him. Indeed, at no point in the past two decades has the Government acquired travel documents with which to deport him. Detaining Yok made no sense because the Government had no way to deport him. This did not dissuade the Government from arbitrarily detaining Yok in January 2025. And Yok was released not because the Government recognized it wrongly detained him, but because it was forced to do so by this Court’s TRO. The result: Yok has spent a year of his life in custody for absolutely no reason. If this case is dismissed as moot and the TRO expires, it

1 is entirely plausible the Government will again at some point irrationally detain Yok
2 without first obtaining travel documents for him.

3 To prevent further harassment by the Government, Yok requests that this Court
4 grant his habeas petition, make the TRO permanent, and bar the Government from
5 detaining Yok again without first obtaining a travel document.

6 **II. PROCEDURAL BACKGROUND**

7 On December 1, 2025, Yok filed a petition for writ of habeas corpus challenging his
8 detention, contending *inter alia* that he had been detained for nearly a year and the
9 Government could not meet its burden under *Zadvydas* of showing a significant likelihood
10 of removal in the reasonably foreseeable future. Dkt. 1, 2. He later filed an application for
11 a TRO, requesting that this Court order the Government to release him and forbid it from
12 re-detaining him unless it first “obtained a legal travel document for Petitioner.” *See* Dkt.
13 11 at 9.

14 On January 5, 2026, the Government represented it did “not have an opposition
15 argument” to Yok’s TRO application. Dkt. 13 at 2.

16 Hence, on January 8, this Court granted the TRO and appointed the Federal Public
17 Defender as counsel for Yok. Dkt. 15. The Court’s TRO directed that the Government
18 file an Answer to Yok’s petition by January 9 and show cause why a preliminary injunction
19 should not issue no later than January 15. *Id.* at 10.

20 On January 9, the Government filed a combined Answer and Response to the
21 Court’s order to show cause. Dkt. 18.

22 This brief addresses the Government’s combined Answer and Response.

23 **III. ARGUMENT**

24 The Government argues that in light of the TRO and Yok’s release, this matter is
25 now moot because “Petitioner has already obtained the complete relief sought in his
26 Petition.” Dkt. 18 at 2-5. Hence, the Government argues this Court should not issue a
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1 preliminary injunction and should simply dismiss Yok’s habeas petition. *Id.* As set forth
2 below, the Government’s argument lacks merit.

3 **A. The Government’s compliance with the TRO does not moot Yok’s**
4 **petition.**

5 “A case becomes moot—and therefore no longer a ‘Case’ or ‘Controversy’ for
6 purposes of Article III—when the issues presented are no longer ‘live’ or the parties lack a
7 legally cognizable interest in the outcome.” *Rosebrock v. Mathis*, 745 F.3d 963, 971 (9th Cir.
8 2013) (cleaned up). So “[a] case might become moot if subsequent events make it
9 absolutely clear that the allegedly wrongful behavior could not be reasonably expected to
10 recur.” *Id.* (citing *Friends of the Earth, Inc. v. Laidlaw Env’t Servs. (TOC), Inc.*, 528 U.S. 167,
11 189 (2000)).

12 But that has not happened here. Here, this Court has thus far only granted
13 temporary release to Yok through the TRO. The Supreme Court has rejected the idea that
14 such temporary relief automatically moots a habeas petition. In *Nielsen v. Preap*, the
15 Supreme Court found the case was not moot where the plaintiffs challenging their
16 immigration detention were released pursuant to a preliminary injunction because “[u]nless
17 that preliminary injunction was made permanent and was not disturbed on appeal, these
18 individuals faced the threat of re-arrest and mandatory detention.” 586 U.S. 392, 403
19 (2019).

20 Indeed, because of the possibility he may be illegally re-detained, Yok has requested
21 a remedy broader than mere release. Yok has *also* requested that the Court “enjoin the
22 immigration authorities from continu[ing] [to] harass Petitioner and forbid them [from] re-
23 detain[ing] Petitioner unless they have obtained a legal travel document.” *See* Dkt. 11 at 9.
24 For this very reason, this Court’s TRO specifically barred the Government from detaining
25 Yok again without a “legal travel document.” Dkt. 15 at 9. Yok thus still has “a legally
26 cognizable interest” in the outcome of his petition notwithstanding his release. *Porter v.*
27 *Jones*, 319 F.3d 483, 489 (9th Cir. 2003).

1 District courts have recognized this and rejected the Government’s arguments that
2 an immigration detainee’s release via a temporary restraining order moots a habeas
3 petition. As the district court concluded in *Esmail v. Noem*, No. 2:25-CV-08325-WLH-
4 RAO, 2025 WL 3030589 (C.D. Cal. Sep. 26, 2025), the Government’s argument that the
5 Court’s granting of a TRO mooted the habeas case “strains credulity.” *Esmail*, 2025 WL
6 3030589 at *3 n.5. That is because under the Government’s theory, “no court would issue
7 a preliminary injunction following the grant of a TRO ordering a habeas petitioner’s
8 release, which is plainly not the case.” *Id.* There are several other decisions in the same
9 vein. *See Phu Van Ta v. Noem et al*, No. 5:25-cv-02902-MEMF-JDE, Dkt. 19 at 5 (C.D. Cal.
10 Dec. 22, 2025) (collecting cases); *see also Cruz v. Lyons*, Case No. 5:25-cv-02879-MCS-MBK,
11 2025 WL 3443146, at *2 (holding that “the release from detention the Court’s temporary
12 restraining order afforded is just that—temporary.”). In short, “the necessity of further
13 injunctive relief maintaining the status quo during the pendency of litigation means the
14 claim is necessarily *not* moot.” *Esmail*, 2025 WL 3030589 at *3 n.5 (emphasis in original).

15 But even if the issuance of a TRO could be enough to moot the case, that would
16 not be the end of the analysis. Instead, courts then consider whether the claims in the
17 petition meet one of the exceptions to the mootness doctrine. One exception to the
18 mootness doctrine exists where an action is “capable of repetition, yet evading review.” *So.*
19 *Pac. Terminal Co. v. Interstate Commerce Comm’n*, 219 U.S. 498, 515 (1911). In *United States v.*
20 *Bandau*, for example, the Ninth Circuit remanded a case to determine whether this
21 exception applied to the litigants’ challenge to a shackling policy—even though the policy
22 had been officially rescinded. 578 F.3d 1064, 1068 (9th Cir. 2009). Remand was necessary,
23 because “anecdotal information strongly suggest[ed]” that the policy was, in fact, ongoing.
24 *Id.* Here, the facts suggest that dismissal on mootness grounds would set up a cycle in
25 which Yok could be repeatedly detained in an unconstitutional manner, released pursuant
26 to a new TRO, then re-detained once the TRO again rendered his claims moot. This
27 weighs against finding the TRO moots Yok’s petition.
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1 The Government argues that “mere speculation” that Yok may be re-detained is
2 insufficient. Dkt. at 3. But the possibility of Yok’s re-detention is not mere speculation.
3 The Government in this matter has shown it can and will detain Yok regardless of whether
4 it can actually deport him. Indeed, at no point in the past two decades has the
5 Government acquired travel documents with which to deport him. Detaining Yok made
6 no sense because the Government had no way to deport him. This did not dissuade the
7 Government from arbitrarily detaining Yok in January 2025. And Yok was released not
8 because the Government recognized it wrongly detained him, but because it was forced to
9 do so by this Court’s TRO. The result: Yok has spent a year of his life in custody for
10 absolutely no reason. If this case is dismissed as moot and the TRO expires, it is entirely
11 plausible the Government will again at some point irrationally detain Yok without first
12 obtaining travel documents for him. This matter is thus capable of repetition and Yok’s
13 temporary release on this occasion does not moot this matter.

14 **B. This Court should grant Yok’s habeas petition and issue permanent**
15 **injunctive relief.**

16 This Court’s TRO ordered the Government to file an Answer to Yok’s habeas
17 petition and show cause why a preliminary injunction should not issue. Dkt. 15 at 10. The
18 Government’s combined Answer and Response to the order to show cause offer no other
19 ground for opposing the petition apart from mootness. Given that the Government does
20 not oppose the petition on any other ground, this Court should grant the petition and
21 issue permanent injunctive relief barring the Government from detaining Yok again
22 without first obtaining a travel document.

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IV. CONCLUSION

For all the foregoing reasons, Yok requests that the Court grant his habeas petition and issue permanent injunctive relief, barring the Government from detaining him again without first obtaining a travel document.

Respectfully submitted,

CUAUHTEMOC ORTEGA
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Dated: January 12, 2026

By: *Raj N. Shah*

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Attorneys for Petitioner
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CERTIFICATE OF COMPLIANCE

The undersigned, counsel of record for Petitioner Somcheth Sam Yok, certifies that this brief contains 1,676 words, which complies with the word limit of L.R. 11-6.1.

Dated: January 12, 2026

By: *Raj N. Shah*

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