

Magistrate Judge Brian A. Tsuchida

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UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

RIGOBERTO ONTIVEROS-MONZON,

Petitioner,

v.

LAURA HERMOSILLO, *et al.*,

Respondents.

Case No. 2:25-cv-02659-BAT

FEDERAL RESPONDENTS'¹ RETURN

Noted for Consideration:

January 12, 2026

I. INTRODUCTION

This Court should deny Petitioner Rigoberto Ontiveros-Monzon's Petition for Writ of Habeas Corpus. Dkt. No. 2. U.S. Immigration and Customs Enforcement detained Petitioner on December 16, 2025. Pet., ¶ 3. First, Petitioner asserts this his re-detention violates the Administrative Procedure Act ("APA") and due process. Pet., ¶¶ 28-31. These claims are now moot as Petitioner has been released from detention. Second, Petitioner claims that U.S. Citizenship and Immigration Services ("USCIS") has "unlawfully withheld and/or unreasonably

¹ Respondent Bruce Scott is not a federal official. He is not a Federal Respondent and is not represented by undersigned counsel.

1 delayed” the adjudication of his U visa.² Pet., ¶¶ 24-25. This claim is not properly brought in a
2 habeas petition. He further asserts that the revocation of his deferred action status is unlawful.
3 Pet., ¶¶ 26-27. However, he fails to allege with any factual support that his deferred action status
4 has been revoked. In fact, he asserts that “he continues to hold deferred action status.” Pet., ¶ 2;
5 *see also id.*, ¶ 17 (“His deferred action status has not been revoked or terminated.”). Thus,
6 Petitioner has failed to state a claim concerning the alleged revocation.

7 Accordingly, Federal Respondents request that this Court deny the Petition.

8 II. LEGAL STANDARD

9 It is axiomatic that “[t]he district courts of the United States . . . are courts of limited
10 jurisdiction. They possess only that power authorized by Constitution and statute.” *Exxon Mobil*
11 *Corp. v. Allopath Servs., Inc.*, 545 U.S. 546, 552 (2005) (internal quotations omitted). “[T]he
12 scope of habeas has been tightly regulated by statute, from the Judiciary Act of 1789 to the
13 present day.” *Dep’t of Homeland Sec. v. Thuraissigiam*, 140 S. Ct. 1959, 1974 n. 20 (2020).
14 Title 28 U.S.C. § 2241 provides district courts with jurisdiction to hear federal habeas petitions.
15 To warrant a grant of habeas corpus, the burden is on the petitioner to prove that his or her
16 custody is in violation of the Constitution, laws, or treaties of the United States. *See* 28 U.S.C. §
17 2241(c)(3); *Lambert v. Blodgett*, 393 F.3d 943, 969 n.16 (9th Cir. 2004).

18 III. ARGUMENT

19 A. Petitioner’s claims concerning his detention are moot.

20 Petitioner’s claims concerning his detention and his request for release from detention are
21 moot. Pet., ¶¶ 29-31; Request for Relief, ¶ 5. ICE released Petitioner earlier today. Benjamin
22 Decl., ¶ 3.

23 ² Petitioner improperly asks this Court to declare “that there is no valid and enforceable order of removal.” Pet.,
24 Request for Relief, ¶ 3. This Court does not have jurisdiction over a challenge to a removal order. 8 U.S.C.
§ 1252(g). The appropriate forum to raise that claim is through the administrative process or the Ninth Circuit – not
this Court. 8 U.S.C. §§ 1252(b)(9), (a)(5), (g).

1 For a federal court to have jurisdiction, “an actual controversy must exist at all stages of
2 the litigation.” *Biodiversity Legal Foundation v. Badgley*, 309 F.3d 1166, 1173 (9th Cir. 2002).
3 “For a habeas petition to continue to present a live controversy after the petitioner’s release or
4 deportation . . . there must be some remaining ‘collateral consequence’ that may be redressed by
5 success on the petition.” *Abdala v. INS*, 488 F.3d 1061, 1064 (9th Cir. 2007). Now that
6 Petitioner is no longer in custody due to his release, his habeas claims concerning his detention
7 are moot. *Abdala*, 488 F.3d at 1065 (describing habeas petitions that claim indefinite detention
8 as fully resolved and rendered moot by the petitioner’s release from custody); *Babak v. ICE*
9 *FOD*, 20-cv-212-RSM-BAT, 2020 WL 1976798, at *1 (W.D. Wash. Mar. 31, 2020) *R&R*
10 *adopted by* 2020 WL 1974335, at *1 (W.D. Wash. Apr. 24, 2020) (dismissing habeas petition as
11 moot after ICE released petitioner on supervision).

12 Accordingly, this Court should dismiss Petitioner’s detention claims as moot. *Foster v.*
13 *Carson*, 346 F.3d 742, 745 (9th Cir. 2003) (court lacks jurisdiction to hear claims that are moot).

14 **B. Petitioner’s claims concerning the adjudication of his U visa application are not**
15 **cognizable under habeas.**

16 Petitioner’s claim that USCIS has unreasonably delayed or unlawfully withheld the
17 adjudication of his U visa application is not properly brought in a habeas petition. Pet., ¶ 25.
18 Section 2241 provides an avenue for relief for a person to claim that his or her custody is in
19 violation of the Constitution, laws, or treaties of the United States. 28 U.S.C. § 2241.
20 Petitioner’s claim concerning his U visa application does not go to the lawfulness of his custody;
21 instead, this claim directly goes to the timing of the adjudication of his application. An order
22 from this Court requiring USCIS to adjudicate the pending application has no bearing on whether
23 his current custody is lawful. If this Court interprets this APA claim to be separate from the
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1 habeas petition, USCIS requests the opportunity to respond on the merits through a motion to
2 dismiss within the timeframe set in Federal Rule of Civil Procedure 12(a)(2).

3 **IV. CONCLUSION**

4 For the foregoing reasons, this Court should deny the Petition.

5 DATED this 5th day of January, 2026.

6 Respectfully submitted,

7 CHARLES NEIL FLOYD
8 United States Attorney

9 *s/ Michelle R. Lambert*

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20 *I certify that this memorandum contains 802 words,*
21 *in compliance with the Local Civil Rules.*