

ERIC GRANT
United States Attorney
ANTHONY ANDREWS
Assistant United States Attorney
2500 Tulare Street, Suite 4401
Fresno, CA 93721
Telephone: (559) 497-4084
Facsimile: (559) 497-4099

Attorney for Respondents

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

LOVEDEEP SINGH

Petitioner,

v.

ORESTES CRUZ et al,

Respondents.

CASE NO. 1:26-CV-05102-TLN-AC

MOTION TO DISMISS HABEAS
PETITION AS MOOT; ANSWER AND
OPPOSITION TO HABEAS PETITION;
RESPONSE TO ORDER TO SHOW CAUSE

On July 2, 2026, Petitioner filed a habeas petition and motion for temporary restraining order. (ECF 1, 2). On July 2, 2026, the Court granted the motion for temporary restraining order, ordered Petitioner's immediate release, and imposed restrictions on re-detention. (ECF 4). On July 3, 2026, Petitioner was released from ICE custody. The temporary restraining order ordered Petitioner's release and enjoined and restrained respondents from re-arresting or re-detaining Petitioner without notice and a hearing before an immigration judge where respondents will have the burden of establishing that petitioner is a flight risk or danger, or respondents show material changed circumstances demonstrating a significant likelihood of Petitioner's removal in the reasonably foreseeable future. *Id.*

Respondents move the Court to dismiss the habeas petition as moot. Respondents do not request a hearing. The Constitutional limit of the scope of federal court jurisdiction to federal cases or controversies "underpins . . . [the] mootness jurisprudence." *Friends of the Earth, Inc. v. Laidlaw Envtl. Servs. (TOC), Inc.*, 528 U.S. 167, 180 (2000). Mootness is thus jurisdictional. *See Cole v. Oroville*

1
2 *Union High Sch. Dist.*, 228 F.3d 1092, 1098 (9th Cir. 2000). “This means that, throughout the litigation,
3 the plaintiff ‘must have suffered, or be threatened with, an actual injury traceable to the defendant and
4 likely to be redressed by a favorable judicial decision.’” *Spencer v. Kemna*, 523 U.S. 1, 7 (1998)
5 (quotation omitted). When, because of intervening events, a court cannot give any effectual relief in
6 favor of the petitioner, the proceeding should be dismissed as moot. *Calderon v. Moore*, 518 U.S. 149,
150 (1996).

7
8 “[T]he essence of habeas corpus is an attack by a person in custody upon the legality of that
9 custody, and . . . the traditional function of the writ is to secure release from illegal custody.” *Preiser v.*
10 *Rodriguez*, 411 U.S. 475, 484 (1973). If a petitioner is no longer imprisoned by the allegedly illegal
11 custody, then the court cannot fashion the habeas relief requested by the petitioner and the petition
12 becomes moot. *Burnett v. Lampert*, 432 F.3d 996, 1001 (9th Cir. 2005) (holding that the petitioner’s
release on parole and subsequent reimprisonment rendered his habeas corpus petition moot).

13
14 Petitioner is no longer in ICE custody and there is no challenge before this Court regarding the
15 purported unlawfulness of his current custody situation. *See e.g. McCollough v. Graber*, 726 F.3d 1057,
16 1060 (9th Cir. 2013)(a habeas petitioner’s release from custody moots the habeas petition because the
17 relief requested in the habeas petition is no longer available); *Picrin-Peron v. Rison*, 930 F.2d 773, 776
18 (9th Cir.1991) (finding that because petitioner only requested release from custody and had been
19 released, the court could provide no further relief and the petition was properly dismissed); *Abdala v.*
20 *I.N.S.*, 488 F.3d 1061, 1064 (9th Cir. 2007)(“Abdala’s attempt to amend his petition after his deportation
21 could not revive his petition. He sought to file an amended petition nearly a month after he was released
22 from custody and deported to Somalia. As Abdala was no longer ‘in custody’ within the meaning of 28
23 U.S.C. § 2254 when he attempted to amend his petition, his petition was moot and there was nothing to
24 amend...we must dismiss his petition as moot.”). *See also generally e.g. Arce-Retana v. Asher*, 586 Fed.
25 App’x 286 (9th Cir. Dec. 1, 2014)(unpublished)(“We lack jurisdiction to review the district court’s
26 dismissal of Arce-Retana’s habeas petition because his subsequent departure from the united States
27 following his release from immigration custody during the pendency of his appeal moots his requests for
release from custody on the condition of bond and for a reduction in the bond amount.”); *Chan v.*

1
2 *Secretary of Homeland Security*, No. LA CV 16-01709-VBF, 2016 WL 4204596 (C.D. Cal. Aug. 5,
3 2016) (alien's habeas petition dismissed as moot where ICE officials caused Petitioner to be removed
4 from the United States and sent to Cambodia pursuant to his final order of removal).

5 In Petitioner's habeas petition, he requested the Court issue a habeas corpus requiring
6 Petitioner's immediate release, or in the alternative order a bond hearing (ECF 1 at 13). This is the same
7 kind of relief requested in the motion for temporary restraining order and granted by the Court in the
8 temporary restraining order.¹ (ECF 2 at 18) *See also Ordonez Banol v. Warden*, No. 5:26-cv-00529-
9 CAS-ACCV, 2026 WL 1018629 at *2-3 (C.D. Cal. Apr. 14, 2026) (Alien's release from custody
10 pursuant to TRO mooted the requested preliminary injunction and the habeas petition); *Singh v. Bowen*,
11 5:25-cv-03034-CAS-PD, 2025 WL 3679185 at *1 (C.D. Cal. Dec. 18, 2025) (dismissing as moot habeas
12 petition where petitioner was released from immigration custody pursuant to a TRO). Petitioner's rights
13 are protected by the Court's temporary restraining order and respondents are prohibited from re-
14 arresting Petitioner absent constitutional protections dictated by the Court. (ECF 4).

15 Accordingly, the Court must dismiss this moot petition because nothing remains before the Court
16 to be remedied. *Kemna*, 523 U.S. at 18. No hearing on this motion is requested by respondents.

17 Furthermore, Respondents oppose all requested relief on the merits for the reasons that follow.

18 Petitioner is detained under 1225(b)(2)(A). *See* Exhibit 1. Petitioner entered the United States
19 illegally. Petitioner is thus an "applicant for admission" who is subject to mandatory detention by ICE
20 under 8 U.S.C. § 1225(b)(2). *Joaquin Herrera Avila v. Bondi*, No. 25-3741 (8th Cir. March 25, 2026);
21 *Buenrostro-Mendez v. Bondi*, No. 25-20496, 2026 WL 323330, at *1 (5th Cir. Feb. 6, 2026); *see also*
22 *Cortes Alonzo v. Noem*, 1:25-cv-01519-WBS-SCR at Dkt. 14 (E.D. Cal. Nov. 17, 2025).

23 An "alien who 'arrives in the United States,' or 'is present' in this country but 'has not been
24 admitted,' is treated as 'an applicant for admission.'" *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018)
25 (quoting 8 U.S.C. § 1225(a)(1)). As an applicant for admission, petitioner is subject to mandatory
26 detention and thus ineligible for a bond hearing. Petitioner does not possess a right to freedom from

27
--
¹ In *Chavez v. Murray*, No. 1:25-cv-00198-HBK, 2025 WL 1017678 at *2 (E.D. Cal. April 4, 2025), the Court essentially entertained an almost opposite kind of scenario, denying a motion for temporary restraining order when a habeas was filed, finding that "Petitioner requests that he be released from custody or provided with a bond hearing, which is precisely the same ultimate relief sought in his underlying Petition."

1 immigration detention in any form other than the form provided by Congress. *Shaughnessy v. United*
2 *States ex rel. Mezei*, 345 U.S. 206, 212 (1953), *reaffirmed in DHS v. Thuraissigiam*, 591 U.S. 103, 139
3 (2020). The Court should deny the petition for writ of habeas corpus and all requested relief because
4 there is no such liberty interest, and petitioner's detention is mandated by statute.
5

6 Dated: July 9, 2026

ERIC GRANT
United States Attorney

7
8 By: /s/ Anthony Andrews
9 ANTHONY ANDREWS
Assistant United States Attorney
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
~