

1 Karen S. Monrreal
2 Law Offices of Karen S. Monrreal
3 601 S. Arlington Ave.
4 Reno, NV 89509
5 karen@monrreallaw.com
6 775.826.2380 o
7 775.826.2386 f

8 *Attorney for Petitioner-Plaintiff*

9 UNITED STATES DISTRICT COURT
10
11 FOR THE DISTRICT OF NEVADA

12 Jorge Armando CARLOS,

13 Petitioner-Plaintiff,

14 v.

15 Kristi NOEM, in her Official Capacity, Secretary,
16 U.S. Department of Homeland Security;

17 Pam BONDI, in her Official Capacity, Attorney
18 General of the United States;

19 Todd M. LYONS, Acting Director, Immigration and
20 Customs Enforcement, U.S. Department of Homeland
21 Security;

22 Jason KNIGHT, Salt Lake City Field Office Director
23 for Detention and Removal, U.S. Immigration and
24 Customs Enforcement, Department of Homeland
25 Security; and

26 John MATTOS, Warden, Nevada Southern Detention
27 Center.

28 Respondents-Defendants.

Case No. 2:25-cv-01900-RFB-
EJY

Agency No.

A 

**PETITIONER'S Reply to
Federal Respondents' Response
to the Court's Order to Show
Cause Regarding Preliminary
Injunction**

1 **I. INTRODUCTION**

2 Petitioner, by and through undersigned counsel, Karen S. Monrreal, respectfully submits this
3
4 Reply to the Federal Respondents' Response to the Court's Order to Show Cause (ECF No. 23).
5 Respondents contend that the pending request for a preliminary injunction is moot on the
6 grounds that Petitioner has already obtained the relief sought—release from custody—and that
7 he allegedly failed to satisfy his bond obligation. This position is both factually inaccurate and
8 legally unsound.

9
10 As set forth below, the Petitioner timely complied with the conditions established in this
11 Court's October 10, 2025, Temporary Restraining Order ("TRO") (ECF No. 21), by paying the
12 \$6,000 bond on October 15, 2025, which was accepted by ICE on October 17, 2025. That same
13 day, Petitioner appeared before U.S. Immigration and Customs Enforcement ("ICE") in
14 compliance with the TRO's provision allowing Alternatives to Detention ("ATD") at ICE's
15 discretion, and was duly enrolled in the ISAP supervision program.

16
17 Moreover, the TRO remains in effect only until October 24, 2025, at 5:00 p.m., at which time
18 Petitioner will again face potential rearrest and detention. Consequently, a live controversy
19 continues to exist, and effective relief remains available to prevent unlawful re-detention under
20 the same unconstitutional regulation previously enjoined by this Court.

21
22 **II. STATEMENT OF RELEVANT FACTS**

23 Following his arrest by local law enforcement on July 16, 2025, Petitioner was taken into the
24 custody of ICE the following day, on July 17, 2025. He was then transferred to and detained at
25 the Nevada Southern Detention Center. Because he remained in ICE custody, Petitioner was
26 unable to appear in state court, which consequently led to the issuance of a bench warrant. The
27
28

1 failure to appear was therefore not willful but rather the direct consequence of ICE's decision to
2 take Petitioner into federal custody before the conclusion of his local criminal proceedings.

3 On August 12, 2025, an Immigration Judge conducted a bond hearing and, after considering
4 arguments from both parties, determined that Petitioner was neither a flight risk nor a danger to
5 the community. The Immigration Judge ordered Petitioner released upon payment of a \$6,000
6 bond and subject to Alternatives to Detention at ICE's discretion. The Department of Homeland
7 Security subsequently invoked the automatic stay under 8 C.F.R. § 1003.19(i)(2), thereby
8 preventing Petitioner's release.
9

10 On October 10, 2025, this Court granted Petitioner's Motion for Temporary Restraining
11 Order, finding that the regulatory stay was unconstitutional and enjoining the Government from
12 detaining Petitioner pursuant to 8 U.S.C. § 1225(b)(2) or the automatic stay provision. The TRO
13 directed Petitioner's release by October 11, 2025, required payment of the bond by October 16,
14 2025, and provided that failure to do so could result in rearrest. The TRO remains in effect until
15 October 24, 2025, at 5:00 p.m.
16

17 In compliance with that order, Petitioner paid the \$6,000 bond on October 15, 2025. ICE
18 accepted the bond on October 17, 2025. On the same date, Petitioner appeared at the ICE office
19 as required and was enrolled in Intensive Supervision Appearance Program (ISAP). Through
20 ISAP, Petitioner is subject to ongoing supervision, including in-person check-ins and digital
21 monitoring. Petitioner has fully complied with all program requirements.
22

23 **III. ARGUMENT**

- 24
25 a. **This Case is not Moot because a Live Controversy Remains and Effective**
26 **Relief can be Granted.**
27
28

1 The Government asserts that this case is moot because Petitioner has already been
2 released from custody. However, the doctrine of mootness does not divest this Court of
3 jurisdiction where, as here, a live controversy persists and the Court can still grant meaningful
4 relief.

5 Mootness is “the doctrine of standing set in a time frame.” *Friends of the Earth, Inc. v.*
6 *Laidlaw Envtl. Servs.*, 528 U.S. 167, 189 (2000). Because Article III limits the judicial power to
7 actual, ongoing cases or controversies, see *Deakins v. Monaghan*, 484 U.S. 193, 199 (1988), a
8 case is moot only “where no actual or live controversy exists.” *Cook Inlet Treaty Tribes v.*
9 *Shalala*, 166 F.3d 986, 989 (9th Cir. 1999).

10 The Ninth Circuit has held that a case is not moot when “the parties continue to have a
11 personal stake in the outcome of the lawsuit.” *Zegarra-Gomez v. I.N.S.*, 314 F.3d 1124, 1126
12 (9th Cir. 2003) (citing *Lewis v. Continental Bank Corp.*, 494 U.S. 472, 478 (1990)). In the
13 context of immigration habeas proceedings, a petition is not rendered moot merely because the
14 petitioner is released or removed. So long as the petitioner “was in custody when the habeas
15 petition was filed and continues to suffer actual collateral consequences of his removal [or
16 detention],” the case remains live. *Id.* at 1127; *Spencer v. Kemna*, 523 U.S. 1, 7 (1998); *Abdala v.*
17 *I.N.S.*, 488 F.3d 1061, 1064 (9th Cir. 2007).

18 This action plainly satisfies that standard. Petitioner’s release pursuant to the Court’s
19 Temporary Restraining Order does not extinguish the controversy. The TRO remains in effect
20 only until October 24, 2025, at 5:00 p.m., and expressly authorizes ICE to re-arrest Petitioner if it
21 deems the conditions unsatisfied. Thus, Petitioner remains under an immediate and continuing
22 threat of re-detention. More importantly, Petitioner’s habeas petition challenges not only the
23 duration of his custody but also the legality of the detention itself — specifically, (1) DHS’s
24
25
26
27
28

1 reliance on 8 C.F.R. § 1003.19(i)(2) (the “automatic stay” regulation), and (2) DHS’s
2 misclassification of his custody as “mandatory detention” under 8 U.S.C. § 1225(b)(2) rather
3 than discretionary detention under § 1226(a). See *Petition for Writ of Habeas Corpus and*
4 *Complaint*, ECF No. (1).

5 Because DHS continues to assert that Petitioner is subject to mandatory detention under §
6 1225(b)(2) and remains authorized to re-detain him under that provision, this case continues to
7 present an actual, ongoing controversy. Courts have consistently held that a habeas petition
8 challenging the lawfulness of detention or the statutory basis for custody remains live even after
9 release. See *Zegarra-Gomez*, 314 F.3d at 1127 (holding that collateral consequences of
10 deportation preserved a live controversy).
11

12 Furthermore, Petitioner’s ongoing placement under ICE’s Intensive Supervision
13 Appearance Program confirms that he remains under federal restraint and subject to the same
14 regulatory regime he challenges. The terms of ISAP supervision, together with the TRO’s
15 limited duration, constitute continuing restrictions on Petitioner’s liberty and present an active
16 case or controversy capable of judicial redress.
17

18 Finally, Petitioner’s challenge to mandatory detention implicates broader constitutional
19 issues that extend beyond his temporary release. A favorable ruling by this Court—declaring that
20 DHS’s use of § 1225(b)(2) and § 1003.19(i)(2) to override the Immigration Judge’s bond order
21 violates due process—would directly affect Petitioner’s present and future liberty interests, as
22 well as his procedural rights in ongoing removal proceedings. Such relief remains meaningful
23 and necessary to prevent re-detention under an unconstitutional framework.
24

25 Accordingly, because Petitioner continues to experience ongoing collateral consequences
26 arising from his unlawful detention classification and because this Court can still provide
27
28

1 effective relief, the case is not moot. Petitioner retains a personal stake in the outcome, and the
2 constitutional questions presented remain justiciable under Article III.

3 **b. The Government's Assertion That Petitioner Failed to Pay the Bond Is**
4 **Factually and Legally Unsupported**

5 Respondents' claim that Petitioner "failed to pay the bond" is contradicted by the
6 undisputed record and should be rejected as factually inaccurate.

7
8 This Court's Temporary Restraining Order, entered on October 10, 2025, required
9 Petitioner to pay the \$6,000 bond set by the Immigration Judge by 12:00 p.m. on October 16,
10 2025. Petitioner complied in full with that directive by tendering payment on October 15, 2025,
11 within the Court-ordered timeframe. The record further establishes that ICE formally accepted
12 the bond on October 17, 2025. The Government's contrary assertion is unsupported by any
13 credible evidence and appears to stem from an internal administrative delay within ICE's bond
14 processing system. The Court's directive required Petitioner to remit payment by October 16,
15 2025; it did not obligate him to ensure that ICE formally recorded or processed the bond by that
16 same date. Having made payment in good faith and within the prescribed timeframe, Petitioner
17 fully satisfied the conditions set forth in the Temporary Restraining Order.
18

19
20 Even apart from the factual inaccuracy of Respondents' position, the alleged non-
21 payment is legally immaterial to the live controversy before the Court. Petitioner's habeas
22 challenge concerns the lawfulness of the detention itself, not a mere dispute over bond logistics.
23 Specifically, Petitioner contests (1) the Government's invocation of 8 C.F.R. § 1003.19(i)(2)—
24 the "automatic stay" provision that nullified the Immigration Judge's individualized bond
25 determination—and (2) DHS's erroneous classification of his custody as mandatory detention
26
27
28

1 under 8 U.S.C. § 1225(b)(2) rather than discretionary detention under § 1226(a). Whether or not
2 the bond was timely processed does not resolve those constitutional and statutory issues.

3 Accordingly, the Government's assertion that Petitioner failed to pay the bond is
4 unsupported by the record, legally irrelevant to the underlying habeas claims, and insufficient to
5 render this case moot. The evidence establishes that Petitioner has complied fully with every
6 condition imposed by the Court's order.
7

8 **IV. The Government's Reliance on the Bench Warrant Is Misplaced Because the**
9 **Warrant Was a Direct Result of ICE Custody, Not Petitioner's Conduct.**

10 Respondents' reliance on the existence of a state bench warrant to justify Petitioner's
11 detention or to contest his eligibility for injunctive relief is both factually unsupported and
12 legally irrelevant. The record clearly establishes that any failure by Petitioner to appear in state
13 court was the direct consequence of his transfer into federal immigration custody—not a
14 voluntary or negligent act on his part.
15

16 Petitioner was arrested by local law enforcement on July 16, 2025, and immediately
17 thereafter, on July 17, 2025, was taken into custody by ICE. He was subsequently transferred to
18 and detained at the Nevada Southern Detention Center, where he remained until his release under
19 this Court's Temporary Restraining Order. Because Petitioner was physically in ICE custody at
20 the time of his scheduled state court hearing, he was legally and practically incapable of
21 appearing in that proceeding. His absence therefore cannot be construed as willful or as evidence
22 of flight risk or dangerousness.
23

24 The Court itself acknowledged this factual circumstance in the TRO, noting uncertainty
25 as to whether any failure to appear was attributable to ICE custody rather than Petitioner's intent.
26
27
28

Moreover, the Immigration Judge's findings directly contradict the Government's characterization of Petitioner as dangerous or likely to abscond. After a full bond hearing, the Immigration Judge determined by clear and convincing evidence that Petitioner was neither a danger to the community nor a flight risk and accordingly ordered his release upon posting of a \$6,000 bond with supervision at ICE's discretion. See *Matter of Guerra*, 24 I. & N. Dec. 37, 40 (BIA 2006) (requiring individualized findings supported by clear and convincing evidence in custody determinations). That judicial determination—made after full consideration of the record and argument from both parties—carries substantial weight and is entitled to deference.

Furthermore, any reliance on the bench warrant as a basis for detention would violate due process by attributing culpability to Petitioner for conduct beyond his control. The Fifth Amendment prohibits the Government from imposing or maintaining custody on grounds tainted by its own actions that deprived the individual of the ability to comply with another legal obligation. In this case, ICE's decision to assume custody of Petitioner on July 17, 2025, precluded his attendance in state court and directly resulted in the issuance of the bench warrant. The bench warrant, therefore, cannot lawfully serve as evidence of dangerousness or flight risk. To the contrary, its issuance reinforces the arbitrary and unlawful nature of Petitioner's detention: ICE's unilateral transfer into federal custody deprived Petitioner of his right to participate in his pending criminal matter and thereby created the very condition now invoked to justify his confinement.

In sum, the Government's reliance on the bench warrant is factually erroneous, legally unsupported, and inconsistent with due process principles. The record establishes that Petitioner's nonappearance was caused exclusively by ICE custody, and the Immigration Judge's

1 findings further confirm that Petitioner poses no risk of flight or danger. Accordingly, the bench
2 warrant cannot serve as a legitimate basis to deny or limit the injunctive relief requested.

3 **V. Petitioner Satisfies the *Winter* Factors for Preliminary Injunctive Relief.**

4 To obtain a preliminary injunction, a petitioner must demonstrate (1) a likelihood of success
5 on the merits, (2) irreparable harm in the absence of relief, (3) that the balance of equities tips in
6 his favor, and (4) that an injunction is in the public interest. *Winter v. Natural Resources Defense*
7 *Council*, 555 U.S. 7, 20 (2008). Petitioner satisfies each factor, as this Court has already
8 implicitly recognized in granting the TRO.
9

10 **a. Likelihood of Success on the Merits.**

11 As previously set forth in the Petition, Petitioner is likely to prevail on his challenge to
12 the Government's use of both the automatic stay regulation, 8 C.F.R. § 1003.19(i)(2), and the
13 mandatory detention provision, 8 U.S.C. § 1225(b)(2).
14

15 Under the plain language of 8 U.S.C. § 1226(a) and long-established precedent, the
16 detention of individuals who are physically present in the United States and undergoing removal
17 proceedings—such as Petitioner—is governed by § 1226(a), not § 1225(b)(2). Because Petitioner
18 has lived in the United States for over twenty years and was not apprehended at or near the
19 border, he falls squarely within § 1226(a) and is therefore entitled to a bond hearing before an
20 Immigration Judge with full due process protections.
21

22 Section 1226 establishes two categories of detention:

- 23
- 24 • § 1226(a) — applies to individuals already in the United States and allows discretionary
25 release on bond; and
 - 26 • § 1226(c) — applies to a limited group of “criminal aliens” who are subject to mandatory
27 detention.
28

1 The Government's attempt to classify Petitioner under § 1225(b)(2)—a provision governing
2 arriving aliens seeking admission at the border—misreads the statute and contradicts controlling
3 authority. In *Jennings v. Rodriguez*, 583 U.S. 281 (2018), the Supreme Court confirmed that §
4 1225 applies to individuals at the border, while § 1226 governs those already inside the country,
5 including persons who entered without inspection but have established residence and community
6 ties.
7

8 Interpreting § 1225 as the Government urges would render § 1226 superfluous, contrary to
9 the Supreme Court's directive that every statutory provision must be given effect. *See Corely v.*
10 *United States*, 556 U.S. 303, 314 (2009). Because Petitioner was not apprehended at a port of
11 entry and does not fall within § 1226(c), his detention is governed exclusively by § 1226(a).
12

13 **b. Irreparable Harm.**

14 Absent continued injunctive protection, Petitioner faces immediate and irreparable harm
15 to his liberty interests. The TRO expires on October 24, 2025, at 5:00 p.m., after which ICE may
16 re-detain him under the same unconstitutional authority. Each day of unlawful custody
17 constitutes irreparable injury because “the loss of liberty for even one day is a harm that cannot
18 be remedied through monetary damages.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). The
19 ongoing ISAP supervision and the imminent threat of re-detention underscore the continuing
20 deprivation of Petitioner's freedom absent judicial intervention.
21

22 **c. Balance of Equities and Public Interest.**

23 The equities decisively favor Petitioner. The Government has no legitimate interest in
24 enforcing unconstitutional detention regulations or disregarding a valid Immigration Judge bond
25 determination. By contrast, Petitioner's interest in remaining free from unlawful custody is of the
26 highest constitutional order.
27
28

1 The public interest strongly supports the continued protection of constitutional rights and the
2 integrity of judicial determinations. Upholding the Immigration Judge's lawful bond order and
3 preventing arbitrary re-detention promote both procedural fairness and public confidence in the
4 rule of law. Moreover, maintaining Petitioner's supervised release through ISAP ensures
5 ongoing compliance with immigration proceedings while safeguarding due process.
6

7 In sum, Petitioner's continued compliance with the Court's order, his ongoing subjection to
8 supervision and threat of re-detention, and the Court's prior constitutional findings all
9 demonstrate that he satisfies the Winter factors. The balance of law and equity therefore compels
10 the conversion of the existing TRO into a preliminary injunction preserving Petitioner's liberty
11 pending final adjudication of his habeas petition.
12

13 **VI. CONCLUSION**

14 For the reasons set forth above, Petitioner respectfully submits that this matter presents an
15 ongoing and justiciable controversy. Petitioner remains subject to the same unlawful statutory
16 and regulatory framework that this Court has already found constitutionally deficient, and the
17 limited duration of the Court's Temporary Restraining Order—set to expire on October 24, 2025,
18 at 5:00 p.m.—underscores the continuing need for judicial protection.
19

20 Petitioner's habeas petition challenges not only the Government's reliance on the automatic
21 stay regulation, 8 C.F.R. § 1003.19(i)(2), but also his misclassification under the mandatory
22 detention provision, 8 U.S.C. § 1225(b)(2), rather than the discretionary custody framework of §
23 1226(a). These constitutional and statutory claims remain unresolved and continue to affect
24 Petitioner's present and future liberty interests.
25

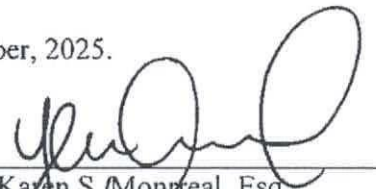
26 Further, the record establishes that Petitioner has fully complied with all terms of the TRO:
27 he timely paid the \$6,000 bond on October 15, 2025, ICE accepted payment on October 17,
28

1 2025, and he presented himself to ICE on the same day for enrollment in ISAP. Petitioner has
2 abided by all supervision requirements and remains under ongoing federal restraint. The
3 Government's assertions to the contrary are unsupported by the evidence and do not negate the
4 continuing legal controversy concerning the lawfulness of his detention.

5 Accordingly, Petitioner respectfully requests that this Court:

- 6
- 7 1. Grant a Preliminary Injunction enjoining Respondents from re-detaining Petitioner
8 under 8 C.F.R. § 1003.19(i)(2), 8 U.S.C. § 1225(b)(2), or any other authority that nullifies the
9 Immigration Judge's lawful bond determination;
 - 10 2. Confirm Petitioner's continued release under the \$6,000 bond and supervision
11 through the ISAP program, consistent with the Immigration Judge's bond order and this Court's
12 prior TRO; and
 - 13 3. Retain jurisdiction over this matter pending final adjudication of the Petition for Writ
14 of Habeas Corpus to ensure compliance with this Court's orders and to prevent re-detention in
15 violation of due process.
- 16

17 Respectfully Submitted this 20th day of October, 2025.

18
19
20 
21 Karen S. Montreal, Esq.
22 Attorney for Petitioner
23
24
25
26
27
28