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8 **UNITED STATES DISTRICT COURT**
FOR THE CENTRAL DISTRICT OF CALIFORNIA

9
10 ALMA MARTINEZ CRUZ,

11 Petitioner,

12 v.

13 TODD LYONS, et al.,

14 Respondents.
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Case No. 5:25-cv-02879-MCS-MBK

**PETITIONER'S REPLY IN
SUPPORT OF MOTION FOR
LEAVE FOR EXPEDITED
DISCOVERY (DKT. 13)**

Hon. Mark C. Scarsi
United States District Judge

1 Petitioner submits this Reply to Respondents' Opposition to Petitioner's
2 Motion for Leave for Expedited Discovery. Dkt. 14.

3 Respondents correctly note, as did Petitioner in her motion (Dkt. 13 at 2), that
4 Petitioner's motion does not comply with several provisions of the Federal and Local
5 Rules regarding the timing of the motion, meet and confer requirements, and
6 noticing a motion hearing date on the standard 28-day time frame pursuant to L.R.
7 6-1, L.R. 7-9. Dkt. 14 at 2-3.

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9 However, as Petitioner pointed out in her motion, Petitioner's limited
10 discovery motion is governed primarily by the procedural rules for habeas petitions
11 set forth at 28 U.S.C. §§ 2243, 2246 and by the Rules Governing Section 2254 Cases
12 in the United States District Courts ("Rules for 2254 Cases"), and not primarily by
13 the Federal Rules of Civil Procedure. *See* Fed.R.Civ.P. 81(a)(4)(A) ("*Special Writs*.
14 These rules apply to proceedings for habeas corpus and for quo warranto to the
15 extent that the practice in those proceedings: (A) is not specified in a federal statute
16 [or] the Rules Governing Section 2254 Cases...."); *see also*, Rule 12, Rules for 2254
17 Cases ("Applicability of the Federal Rules of Civil Procedure – The Federal Rules
18 of Civil Procedure, to the extent they are not inconsistent with any statutory
19 provisions or these rules, may be applied to a proceeding under these rules.")
20 Likewise, a district court's local rules must be interpreted in a manner that is
21 consistent with federal statutes, such as the habeas procedural rules set forth at 28
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1 U.S.C. §§ 2243, 2246. See Fed.R.Civ.P. 83(a)(1).

2 The time frame for the adjudication of standard motions in civil cases set forth
3 in the Local Rules (*e.g.* L.R. 6-1, 7-3, 7-9) conflicts with § 2243's instruction that
4 habeas matters be handled expeditiously. Consistent with the statutory guidance to
5 act expeditiously, and with input from all parties, the Court scheduled a preliminary
6 injunction hearing for November 21st.

7 The limited discovery now sought by Petitioner is authorized by 28 U.S.C. §
8 2246 and by Rule 6(a) and (b), Rules for 2254 Cases, which provide for a "good
9 cause" standard and require the Petitioner to obtain leave of court before seeking
10 discovery. Contrary to Respondents' suggestion that Petitioner sought to surprise
11 Respondents' counsel or compel work on short notice (Dkt. 14 at 2-3), Petitioner's
12 counsel emailed Respondents' counsel at 7:30 AM on November 10th and proposed
13 an eight-day period for responding to nine interrogatories and proposed a briefing
14 schedule for the preliminary injunction hearing consistent with the Court's
15 November 6th Order (Dkt. 12). *See* Dkt. 14-1 at 2-3.

16 And finally, the Respondents are incorrect in asserting that this case is moot
17 because Petitioner has been released from their custody. Dkt. 14 at 2. Respondents
18 rely on *Picrin-Peron v. Rison*, 930 F.2d 773 (9th Cir. 1991) for the proposition that
19 once a petitioner is released, a court can provide no further relief and the case is
20 moot. Dkt. 14 at 2. The Ninth Circuit determined that the case was moot in *Picrin-*
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1 *Peron* only after “the government filed a declaration of the director of the Los
2 Angeles District Office of the INS who reiterated under oath the [promise not to
3 redetain the petitioner unless certain violations occurred].” *Id.* at 776. No such
4 promise has been made in this case. Additionally, at least one district court has
5 called *Picrin-Peron*’s holding into doubt: “the Supreme Court and Ninth Circuit
6 more recently have held that the Department of Homeland Security’s conditional
7 release of a petitioner who is subject to re-detention at the discretion of federal
8 authorities does not moot a habeas challenge to immigration detention. *See Clark v.*
9 *Martinez*, 543 U.S. 371, 376 n.3 (2005); *Diouf v. Napolitano*, 634 F.3d 1081, 1084
10 n.3 (9th Cir. 2011); *Rodriguez v. Hayes*, 591 F.3d 1105, 1117–18 (9th Cir. 2010).
11 *Singh v. Acting Dir. of DHS-ICE*, No. 5:19-CV-02417-GW-MAA, 2021 WL
12 674122, at *2 (C.D. Cal. Feb. 19, 2021).

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14 It is well settled law that a case continues to present a live controversy where
15 the plaintiffs obtained only temporary relief from the court and where defendants
16 have not overcome the high bar for voluntary cessation. Petitioner’s claims are not
17 moot because Respondents have not disavowed their actions in re-detaining the
18 Petitioner nor have they disavowed their unlawful interpretation of the law. As this
19 Court noted in its Order:
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21 “Respondents do not meaningfully engage with Petitioner’s Fifth Amendment
22 claim, let alone provide any cogent explanation for Petitioner’s sudden
23 detention after 13 years of parole. Respondents assert that relief is unavailable
because the Fifth Amendment claim challenges the constitutionality of

1 Petitioner’s arrest, ... which mischaracterizes the substantive claim.” Dkt. 12
2 at 8.

3 “Respondents assert that the Immigration and Nationality Act does not require
4 a hearing, and the government has wide discretion to detain noncitizens.” Dkt.
5 12 at 9.

6 “[R]espondents contend Petitioner’s detention is mandatory under 8 U.S.C. §
7 1225....” Dkt. 12 at 7, n.3.

8 “[E]ven had Respondents cited applicable authority to support their arguments
9 ..., they present no evidence or proffer suggesting they detained Petitioner for
10 any lawful reason.” *Id.*¹

11 The Court’s Temporary Restraining Order does not afford Petitioner
12 permanent relief. *See Fed.R.Civ.P. 65(b).* Courts have repeatedly held that where –
13 as here – the government complies with a district court order that results in release,
14 that does not render a case moot. Instead, the government is free to appeal that order,
15 and a party who received only temporary relief may continue to seek final relief.
16 The Supreme Court has spoken directly to this point. *See Nielsen v. Preap*, 586 U.S.
17 392, 403 (2019); *see also Carafas v. LaVallee*, 391 U.S. 234, 238 (1968) (explaining
18 that, under the federal habeas statute, “once ... federal jurisdiction has attached in
19 the District Court, it is not defeated by the release of the petitioner prior to the
20 completion of proceedings on such application”). Similarly, in *Rodriguez Diaz v.*
21 *Garland*, the Ninth Circuit affirmed that the case was not moot where the

22 ¹ Petitioner’s nine proposed interrogatories seek to gather evidence on this issue.
23 Dkt. 13 at 6-7.

1 government held a bond hearing ordered by the district court. 53 F.4th 1189, 1195
2 n.2 (9th Cir. 2022) (“The government’s compliance with the district court’s order
3 does not moot its appeal.” (citing *United States v. Golden Valley Elec. Ass’n*, 689
4 F.3d 1108, 1112-13 (9th Cir. 2012)).) Thus, “[t]he law is clear that release does not
5 necessarily moot a petition, and because Petitioners could foreseeably be redetained
6 and later face the same [detention] practices that they contest today, they continue
7 to have a legally cognizable interest in the outcome of th[e] suit.” *Moran v. U.S.*
8 *Dep’t of Homeland Sec.*, 2020 WL 6083445, at *7 (C.D. Cal. Aug. 21, 2020).

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10 For the foregoing reasons, Petitioner respectfully requests that the Court grant
11 Petitioner leave to conduct the limited discovery sought.

12 Dated: November 11, 2025

13 Respectfully submitted,
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