

Niels W. Frenzen (CA 139064)
nfrenzen@law.usc.edu
Jean E. Reisz (CA 242957)
jreisz@law.usc.edu
USC Gould School of Law
Immigration Clinic
699 Exposition Blvd.
Los Angeles, CA 90089-0071
213-740-8933; 213-821-3108

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

Alma Martinez Cruz,	)	CASE NO.: 5:25-cv-02879-MCS-MBK
	)	
Petitioner-Plaintiff,	)	
	)	PETITIONER ALMA MARTINEZ
v.	)	CRUZ'S REQUEST FOR PRELIMINARY
	)	INJUNCTION
Todd Lyons, Acting Director	)	
Immigration and Customs	)	<u>Hearing</u>
Enforcement;	)	Date: November 24, 2025
Ernesto Santacruz Jr.,	)	Time: 9:00 a.m.
Los Angeles Field Office	)	Courtroom: 7C
Acting Director, Immigration	)	Judge: Hon. Mark C. Scarsi
and Customs Enforcement,	)	
Enforcement and Removal	)	
Operations; Fereti Semaia,	)	
Warden, Adelanto ICE	)	
Processing Center	)	
	)	
	)	
	)	
Respondents-Defendants.	)	

1 On November 6, 2025 Petitioner was released pursuant to this Court's
2 Temporary Restraining Order ("TRO"). *See* TRO, DKT No. 12. Petitioner was
3 released with new restrictions on her liberty including GPS monitoring, weekly
4 reporting requirements through a supervision application called SMARTLink on
5 her phone, in-house visits by ICE every eight months beginning December 26, and
6 separate in-person reporting every eight months beginning November 26. *See*
7 generally, Exhibit A, ICE Order of Release on Recognizance; Exhibit B, ISAP
8 Individual Service Plan; Exhibit C, SmartLINK Agreement; and Exhibit D,
9 Declaration of Alma Martinez Cruz ("Martinez Cruz Decl."). Respondents also
10 seized Petitioner's driver's license, thereby prohibiting her ability to drive. Exhibit
11 D, Martinez Cruz Decl., ¶ 16.

12 To date, Respondents have not provided any lawful basis for their re-arrest
13 and re-detention of Petitioner, or of their seizure of her driver's license, or their
14 imposition of restrictive monitoring measures on Petitioner that continue to restrict
15 Petitioner's liberty and constitute an ongoing constitutional violation. Nor have
16 Respondents provided any evidence that Petitioner poses any risk of flight.
17 Petitioner requests that this Court issue a preliminary injunction ordering that
18 Petitioner be fully restored to her liberty prior to her unlawful arrest and re-
19 detention including remaining free from the new restrictions imposed on her liberty,
20 that her driver's license be returned, and that she not be re-detained without a pre-
21 detention hearing before a neutral immigration judge.

1 Respondents did not agree to a briefing schedule prior to the Court's deadline
2 of November 21, 2025 at 12PM regarding the preliminary injunction hearing. *See*
3 Exhibit A to Respondents' Opposition to Motion for Leave for Expedited
4 Discovery, DKT. 14-1, p. 2. As such, at the time of Petitioner's filing, there has
5 been no further briefing by Respondents to which Petitioner is able to respond.
6
7 Petitioner is likely to succeed on the merits of her claims and- although she has
8 been released from detention- Respondents' violation of her constitutional rights
9 and resulting irreparable harm continues.
10

11
12 Petitioner anticipates that at the preliminary injunction hearing Respondents
13 will suggest the issues are now moot after Petitioner's release from detention.
14 Petitioner's claims are not moot because Respondents opposed her release and
15 released her only after the Court issued the TRO, Respondents have made no
16 assurances that they will not seek to re-arrest and re-detain her, and Petitioner's
17 liberty continues to be unlawfully restrained by the restrictive monitoring
18 conditions imposed upon her that include GPS locating, weekly check-ins via the
19 monitoring application, frequent house visits by Respondents, and Petitioner's
20 frequent in-person reporting obligations.
21
22

23
24 It is well settled law that a case continues to present a live controversy where
25 the petitioner obtained only temporary relief from the court and where respondents
26 have not overcome the high bar for voluntary cessation. The Supreme Court has
27 explained that cases involving comparable situations do not become moot simply
28

1 because a person is released from immigration detention pursuant to a court order
2 providing temporary relief. *See Nielsen v. Preap*, 586 U.S. 392, 403 (2019)
3 (plurality opinion) (claims of plaintiffs released on bond not moot “[u]nless
4 preliminary [relief] was made permanent” because they still “faced the threat of re-
5 arrest and mandatory detention”).
6

7
8 Courts have repeatedly held that where – as here – the government complies
9 with a district court order that results in release, that does not render a case moot.
10 Instead, the government is free to appeal that order, and a party who received only
11 temporary relief may continue to seek final relief. The Supreme Court has spoken
12 directly to this point. *See id.*; *see also Carafas v. LaVallee*, 391 U.S. 234, 238
13 (1968) (explaining that, under the federal habeas statute, “once ... federal
14 jurisdiction has attached in the District Court, it is not defeated by the release of the
15 petitioner prior to the completion of proceedings on such application”). Similarly,
16 in *Rodriguez Diaz v. Garland*, the Ninth Circuit affirmed that the case was not moot
17 where the government held a bond hearing ordered by the district court. 53 F.4th
18 1189, 1195 n.2 (9th Cir. 2022) (“The government’s compliance with the district
19 court’s order does not moot its appeal.” (citing *United States v. Golden Valley Elec.*
20 *Ass’n*, 689 F.3d 1108, 1112-13 (9th Cir. 2012))).
21
22

23
24
25 Thus, “[t]he law is clear that release does not necessarily moot a petition, and
26 because Petitioner could foreseeably be re-detained and later face the same
27 [detention] practices that [she] contest[s] today, [she] continue[s] to have a legally
28

1 cognizable interest in the outcome of th[e] suit.” *Moran v. U.S. Dep’t of Homeland*
2 *Sec.*, [2020 WL 6083445](#), at *7 (C.D. Cal. Aug. 21, 2020).¹

3
4 At no point have Respondents disavowed their actions in re-detaining
5 Petitioner, nor have they disavowed their unlawful interpretation of the law.
6 Respondents have only released Petitioner pursuant to a temporary order and cannot
7 otherwise overcome the high bar for voluntary cessation. “It is well settled that a
8 ‘defendant’s voluntary cessation of a challenged practice does not deprive a federal
9 court of its power to determine the legality of that practice.’” *Friends of the Earth,*
10 *Inc. v. Laidlaw Env’tl. Servs.*, [528 U.S. 167, 189](#) (2000) (citation omitted). This
11 principle ensures that “a resumption of the challenged conduct” does not recur “as
12 soon as the case is dismissed.” *Knox v. Serv. Emps. Int’l Union*, [567 U.S. 298, 307](#)
13 (2012). Accordingly, when a party claims mootness because they voluntarily
14 stopped engaging in unlawful behavior, they “bear[] a heavy burden” to
15 demonstrate dismissal is appropriate. *Rosebrock v. Mathis*, [745 F.3d 963, 971](#) (9th
16 Cir. 2014) (internal quotation marks omitted); *see also Friends of the Earth*, [567](#)
17 [U.S. at 190](#) (defendant “bears the formidable burden of showing that it is absolutely
18 clear the alleged wrongful behavior could not reasonably be expected to recur.”).
19
20
21
22
23
24
25

26
27 ¹ Respondents have argued in the opposition to a temporary restraining order that
28 Petitioner should be subject to mandatory detention. *See* Resp’t Opp to TRO, [DKT. 9, pp. 17-21](#).

1 In the instant matter, the Court’s TRO provided temporary relief, but absent
2 this Court issuing a preliminary injunction, Respondents remain empowered to re-
3 detain Petitioner upon the expiration of the TRO without a pre-deprivation hearing
4 and under their unlawful interpretation of the detention statutes. As of the time of
5 this filing, Respondents have failed to address Petitioner’s Fifth Amendment claim,
6 “let alone provide any cogent explanation for Petitioner sudden detention after 13
7 years of parole.” TRO, DKT 12, p. 8. Respondents have not provided “any
8 evidence or proffer suggesting they detained Petitioner for any lawful reason.” *Id.*,
9 p.7 n. 3. The administrative closure of Petitioner’s case pursuant to Respondents’
10 offer of prosecutorial discretion allowed Petitioner to overcome the fear of removal
11 and re-detention, to obtain a driver’s license and freely participate in the lives of her
12 family members for ten years. *See Exhibit D*, Martinez Cruz Decl., ¶¶ 11-12. On
13 September 17, 2025, Petitioner was arrested in complying with an immigration
14 appointment and she felt “deceived and that [her] world had been turned upside
15 down.” *Id.*, ¶¶ 12-13.

21 Further, Respondents have imposed additional conditions on Petitioner’s
22 release that she was not subject to prior to her arrest and re-detention, seized her
23 driver’s license, and have not provided any lawful basis for these restrictions on her
24 liberty. *See generally, Exhibit B*, ISAP Individual Service Plan; *Exhibit C*,
25 SmartLINK Agreement; *Exhibit D*, Martinez Cruz Decl. Considering these
26 conditions involve attending regular and indefinite in-person office visits and
27
28

1 Respondents' home visits, Petitioner is at even further risk of being re-detained- as
2 she had been in reporting for a purported credible fear interview- without a pre-
3 deprivation hearing and subject to Respondents' mandatory detention policy. *See*
4 Resp't Opp to TRO, DKT. 9, pp. 17-21 (arguing Petitioner should be mandatorily
5 detained for the duration of her removal proceedings).
6
7

8 Petitioner is likely to succeed on the merits of her claim and faces irreparable
9 harm. A preliminary injunction is needed to return the parties to the *status quo*
10 *ante*, which is "not simply [] any situation before the filing of a lawsuit, but instead
11 [] 'the last uncontested status which preceded the pending controversy.'" *GoTo.com, Inc. v. Walt Disney Co.*, 202 F.3d 1199, 1210 (9th Cir. 2000). In the
12 order granting temporary restraining order, Petitioner was granted immediate
13 release with no additional conditions. TRO, Dkt. 12, p. 11; *see also Sanchez v.*
14 *Wofford*, 2025 WL 3089712 at *9-10 (E.D. Cal. Nov. 5, 2025) (granting a
15 preliminary injunction ordering "the conditions of release placed on [Petitioner] by
16 the Government... be removed, as Petitioner was not subject to such conditions
17 prior to her arrest and detention... or by this Court in its order granting immediate
18 release"). Thus, Petitioner must "be returned to the status quo prior to the pending
19 controversy." *Id.* Petitioner has a substantial private interest in remaining in her
20 home, providing for her family and participating in her community, without the
21 physical constraints of indefinite GPS monitoring, office visits and ICE home
22 visits, and the seizure of her driver's license. *See Zadvydas v. Davis*, 533 U.S. 678,
23
24
25
26
27
28

1 690 (2001) (“Freedom from imprisonment—from government custody, detention,
2 or other forms of physical restraint—lies at the heart of the liberty that Clause
3 protects.”).

4 5 **CONCLUSION**

6 For the foregoing reasons, Petitioner respectfully requests that the Court
7 issue a preliminary injunction ordering Respondents to remove the additional
8 restrictions imposed her upon her release from detention, return her driver’s license,
9 and enjoining Respondents from re-detaining Petitioner without a pre-deprivation
10 hearing before an neutral immigration judge.
11
12

13
14 Dated: November 21, 2025

Respectfully submitted,

15
16 s/ Jean Reisz
17 JEAN REISZ
18 NIELS W. FRENZEN
19 USC GOULD SCHOOL OF LAW,
20 IMMIGRATION CLINIC
21 699 Exposition Blvd
22 Los Angeles, CA 90089-0071
23 (213) 821-3108; jreisz@law.usc.edu
24 Attorneys for Petitioner
25
26
27
28

WORD COUNT CERTIFICATION

The undersigned, counsel of record for Petitioners certifies that this Memo contains 1,550 words, which complies with the word limit of L.R. 11-6.1.

s/ Jean Reisz

JEAN REISZ

Attorney for Petitioner