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UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

ALMA MARTINEZ CRUZ,

Petitioner,

v.

TODD LYONS; *et al.*,

Respondents.

No. 5:25-cv-02879-MCS-MBK

**RESPONDENTS' ANSWER TO
PETITION FOR WRIT OF HABEAS
CORPUS**

Honorable Michael B. Kaufman
United States Magistrate Judge

I. INTRODUCTION

Petitioner Alma Martinez Cruz filed a Petition for Writ of Habeas Corpus under 28 U.S.C. § 2241 requesting immediate release from immigration detention at the Adelanto Immigration Processing Center. Petitioner has been released, and there is no further relief the Court can provide. *See* 28 U.S.C. § 2241(c). Moreover, Petitioner lacks Article III standing to maintain this action potentially for months or years simply based on her fear she might be re-detained at some point in the future. *See, e.g., City of Los Angeles v. Lyons*, 461 U.S. 95, 102 (1983). Accordingly, the Petition should be denied.

II. FACTUAL AND PROCEDURAL BACKGROUND

A. Factual Background

Petitioner is a native and citizen of Mexico. Ex. A, Declaration of Leticia Pompa, ¶ 4. In May 2012, Petitioner sought admission to the United States. *Id.* In July 2012, Petitioner was served a Notice to Appear and placed in removal proceedings. *Id.* ¶ 5.

Over a year later, in December 2013, Petitioner, represented by counsel, applied for asylum. *Id.* ¶ 6; Dkt. 1, Pet. ¶¶ 3, 11, 19 (referring to Petitioner’s asylum application). However, in June 2014, Petitioner, through her attorney, informed the immigration court that she was looking into prosecutorial discretion as well as other avenues for relief and that she was not prepared to proceed with the relief that she had filed with the immigration court. *Id.* ¶ 7.

In June 2015, Petitioner, through her attorney, accepted an offer of prosecutorial discretion by the U.S. Department of Homeland Security (“DHS”). *Id.* ¶ 9; Dkt. 2-2 (2015 IJ order attached as Ex. F to Petitioner’s TRO Application). The case was administratively closed on June 5, 2015. *Id.* ¶ 9; *see also* Ex. B (IJ order, Oct. 8, 2015).

Over the following ten years, Petitioner, nor her counsel, filed a request for her case to be re-calendared and placed back on the active docket of the immigration court. Pompa Decl. ¶ 10. On June 5, 2025, DHS filed a motion to re-calendar with the

1 immigration court. *Id.* ¶ 11.¹

2 On or around September 10, 2025, the Asylum Division of the U.S. Citizenship
3 and Immigration Services (“USCIS”), not Immigration and Customs Enforcement
4 (“ICE”), sent a Form G-56 Notice to Petitioner to schedule a credible fear interview.
5 Dkt. 2-2 (Notice attached as Ex. A to Petitioner’s TRO Application). However,
6 Petitioner was taken into custody by ICE on September 17, 2025 after it was determined
7 that USCIS could not conduct a credible fear review since Petitioner’s case was pending
8 before an immigration court. Pompa Decl., ¶ 12.

9 On September 30, DHS refiled a motion to re-calendar. *Id.* ¶ 13. The immigration
10 judge granted the request on October 8, 2025. *Id.*; Ex. B (IJ order, Oct. 8, 2025).

11 On November 5, Petitioner was released from custody, and one week later,
12 Petitioner had a check-in with Alternatives to Detention (“ATD”). Pompa Decl., ¶ 15.

13 **B. The Habeas Proceedings**

14 On October 29, 2025, Petitioner filed a Petition for Writ of Habeas Corpus
15 Pursuant to 28 U.S.C. § 2241. Dkt. 1. The Petition seeks an order for her release and an
16 order that Petitioner not be re-detained without a pre-detention hearing before a neutral
17 immigration judge. Dkt. 1 at p.7.

18 On October 29, Petitioner also filed a *Ex Parte* Application for Temporary
19 Restraining Order (“TRO”) seeking the same relief. Dkt. 2.

20 On October 30, the Court entered an order setting a briefing schedule on the TRO
21 Application and enjoining Respondents from removing Petitioner until the Court
22 resolves the TRO Application. Dkt. 5. The order found that the TRO Application
23

24 ¹ Contrary to Petitioner’s assertion (Pet. at ¶ 3), the evidence shows that Petitioner
25 has not pursued her asylum claim since June 2015. After administrative closure,
26 Petitioner could have moved to re-calendar, i.e. restart, her immigration proceedings at
27 any time, but she chose not to do so. See 8 C.F.R.1003.18(c)(2) (re-calendar before
28 asylum judges). Petitioner’s declaration does not explain why, although Petitioner
has been and is represented by counsel. See Dkt. 18-1 (Ex. D to Request for PI). An
asylum application must be filed within one year of the date of the applicant’s arrival in
the United States, 8 CFR § 208.4(a)(2), but Petitioner missed the one-year deadline. See
Pompa Decl. ¶¶ 4-5 (stating that Petitioner sought admission in May 2012, but did not
apply for relief until December 2013).

1 “suffers from procedural defects that counsel against granting preliminary injunctive
2 relief without notice to Respondents.” *Id.* at 2. The order noted that the “documentary
3 exhibits to the application [were] not authenticated.” *Id.* at 1 n.1.

4 On October 31, Petitioner filed a Corrected TRO Application, which attached the
5 requisite Fed. R. Civ. P. 65(b)(1) declaration (Dkt. 6), and another declaration
6 authenticating the exhibits attached to the TRO Application (Dkt. 7).

7 On November 5, the Court held a hearing on the TRO Application (Dkt. 11), and
8 on November 6, entered a written order granting the TRO Application, directing
9 Respondents to release Petitioner and enjoining Respondents from re-detaining
10 Petitioner without a pre-detention hearing before an immigration judge (Dkt. 12).

11 On November 10, Petitioners filed an *ex parte* application for leave for expedited
12 discovery. Dkt. 13. Respondents filed an opposition on November 10. Dkt. 14.
13 November 11 was Veterans Day, a federal holiday.

14 On Thursday, November 13, the Court entered an order granting Petitioner’s
15 motion for leave for expedited discovery. Dkt. 16. The order found the motion to be
16 “more analogous to an *ex parte* motion” governed by *Mission Power Eng’g Co. v. Cont’l*
17 *Cas. Co.*, 883 F. Supp. 488, 492 (C.D. Cal. 1995). Dkt. 16 at 2. The order directed
18 Respondents to respond and object within seven days of receipt of the interrogatories. *Id.*
19 at 4. Petitioner served the interrogatories on November 13, and Respondents served their
20 responses and objections on November 20.

21 On December 1, 2025, the Court entered a preliminary injunction (“PI”) enjoining
22 Respondents from re-detaining Petitioner without a pre-detention hearing. Dkt. 20. The
23 order, however, declined to grant additional relief that Petitioner had not requested in the
24 Petition, but had requested later in briefing regarding the terms of Petitioner’s release. *Id.*
25 at 6. The order stated that “Nothing prevents Petitioner from amending her petition to
26 state a cognizable habeas claim for which the relief she requests might be available to
27 vindicate, or from seeking such relief in proceedings before an appropriate executive
28 agency.” *Id.*

1 **III. ARGUMENT**

2 Pursuant to the TRO, Petitioner was released from custody weeks ago.
3 Accordingly, Petitioner has already obtained the complete relief sought in her Petition
4 over which this Court has jurisdiction. *See, e.g., Dkt. 1, Pet. ¶ 1; see also 28 U.S.C. §*
5 *2241(c)* (“The writ of habeas corpus shall not extend to a prisoner unless [h]e is in
6 custody.”). The Ninth Circuit, in addressing the scope of habeas relief, has explained that
7 “release from confinement is the only available remedy for claims at the writ’s core”
8 *Pinson v. Carvajal*, 69 F.4th 1059, 1070 (9th Cir. 2023), *cert. denied sub nom. Sands v.*
9 *Bradley*, 144 S. Ct. 1382 (2024); *see also id.* at 1076 (“Because [petitioner’s] claims lie
10 outside the historic core of habeas corpus, we conclude the district court properly found
11 it lacked jurisdiction to hear [his] petition.”).

12 Because Petitioner has been released, the alleged injury—the detention itself—has
13 ended, and there is no further relief for this Court to provide. As the Supreme Court has
14 explained, once a challenged restraint has ceased to have any continuing effect,
15 “mootness ... simply deprives us of our power to act; there is nothing for us to remedy,
16 even if we were disposed to do so.” *Spencer v. Kemna*, 523 U.S. 1, 18 (1998). “[T]he
17 Ninth Circuit [too] has long held that [] ‘the writ of habeas corpus is limited to attacks
18 upon the legality or duration of confinement.’” *Pinson*, 69 F.4th at 1065 (citing
19 *Crawford v. Bell*, 599 F.2d 890, 891 (9th Cir. 1979)); *see also Preiser v. Rodriguez*, 411
20 U.S. 475, 484 (1973) (“It is clear ... from the common-law history of the writ ... that the
21 essence of habeas corpus is an attack by a person in custody upon the legality of that
22 custody, and that the traditional function of the writ is to secure release from illegal
23 custody.”); *Skinner v. Switzer*, 562 U.S. 521, 525 (2011) (“Habeas is the exclusive
24 remedy ... for the prisoner who seeks immediate or speedier release from confinement.
25 Where the prisoner’s claim would not necessarily spell speedier release, ... suit may be
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27
28

1 brought under § 1983.” (cleaned up)).²

2 Petitioner cannot salvage her habeas petition by speculating that she might be re-
3 detained unlawfully at some indefinite point in the future. Article III requires a concrete,
4 actual or imminent injury; mere speculation about possible future injury is insufficient.
5 *See, e.g., City of Los Angeles v. Lyons*, 461 U.S. 95, 102 (1983) (making plain that
6 plaintiff must show an injury or threat of injury that is “real and immediate,” not
7 “conjectural” or “hypothetical”); *Whitmore v. Arkansas*, 495 U.S. 149, 158 (1990)
8 (“Each of these cases demonstrates what we have said many times before and reiterate
9 today: Allegations of possible future injury do not satisfy the requirements of Art. III. A
10 threatened injury must be ‘certainly impending’ to constitute injury in fact.”). Relatedly,
11 the mere “possibility” of irreparable harm is insufficient to sustain her burden here. *See*
12 *Winter v. Natural Resources Defense Council, Inc.*, 555 U.S. 7, 22 (2008). Instead, she
13 must show “immediate threatened injury.” *Caribbean Marine Servs. Co., Inc. v.*
14 *Baldrige*, 844 F.2d 668, 674 (9th Cir. 1988) (citing *L.A. Mem’l Coliseum Comm’n v.*
15 *Nat’l Football League*, 634 F.2d 1197, 1201 (9th Cir. 1980)). She cannot do so.

16 Standing for prospective relief “does not exist merely because plaintiffs
17 experienced past harm and fear its recurrence.” *Noem v. Vasquez Perdomo*, No. 25A169,
18 --- S.Ct. ---, 2025 WL 2585637, at *2 (U.S. Sep. 8, 2025) (Kavanaugh, J., concurring in
19 the grant of the application for stay). “Absent a sufficient likelihood that [Petitioner] will
20 again be wronged *in a similar way*,” *Lyons*, 461 U.S. at 111 (emphasis added), she

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22 ² The order granting leave for expedited discovery (Dkt. 16) cited the plurality
23 opinion in *Nielsen v. Preap*, 586 U.S. 392, 403 (2019), to find – for the purpose of
24 discovery motion – that this case was not moot. Dkt. 16 at 3-4. But a plurality opinion’s
25 reasoning is not binding. *See, e.g., CTS Corp. v. Dynamics Corp. of Am.*, 481 U.S. 69, 81
26 (1987) (explaining that because a plurality opinion “did not represent the views of a
majority of the Court, [the Court was] not bound by its reasoning”). The Court is not
bound by the plurality’s conclusory jurisdictional finding in *Preap* and should instead
apply the precedent discussed above to find this case to be moot.

27 The discovery order also relies on a short footnote in *Rodriguez Diaz v. Garland*,
28 53 F.4th 1189, 1195 (9th Cir. 2022). Dkt. 16 at 3. That case is distinguishable because it
concerned whether the government’s appeal was moot by complying with a court order
(to hold a bond hearing), not whether the petitioner lacked standing because she had
received the relief she sought, i.e. release from detention. *See* 53 F.4th at 1195 n.2.

1 cannot establish standing to maintain this action. *See, e.g., Hai Chieu Dam v. Timothy*
2 *Robbins*, 2:25-cv-08133-JWH-MAA, Dkt. 7 at 6 (C.D. Cal. Sept. 16, 2025) (declining to
3 address whether petitioner was “in custody” because petition for an injunction barring
4 re-detainment was not ripe). Recently, where a petitioner argued that “his future
5 detention is not speculative because the call-in for a physical appointment is a typical
6 ruse to re-detain noncitizens on supervised release, and that he still faces a risk of
7 unlawful future detention,” the Court found that he “fail[ed] to sufficiently allege an
8 injury or threat of injury because the event giving rise to the Petition has passed and
9 Petitioner’s alleged threat of future injury is too speculative and unripe” and relatedly
10 that he “fail[ed] to present sufficient allegations or evidence of the threat of future injury
11 to confer Article III standing.” *J.P. v. Santacruz*, No. 8:25-CV-01640-FWS-JC, 2025
12 WL 2998305, at *4 (C.D. Cal. Oct. 24, 2025).

13 Similarly, here, Petitioner has not presented sufficient allegations or evidence of a
14 future injury to confer Article III standing. Sustaining this action would effectively
15 convert the Court’s preliminary injunction, barring re-detention without a pre-detention
16 hearing, into a lengthy permanent injunction of indefinite duration that would potentially
17 not dissolve until Petitioner’s removal proceedings in immigration court and any
18 subsequent appeals of those proceedings are concluded. Like the Honorable Judge
19 Slaughter did in *J.P.*, the Petition should be dismissed for lack of standing.

20 Finally, should Petitioner attempt to raise new grievances in her Traverse, they
21 should be rejected. “When a plaintiff seeks injunctive relief based on claims not pled in
22 the complaint, the court does not have the authority to issue an injunction.” *Pac.*
23 *Radiation Oncology, LLC v. Queen’s Med. Ctr.*, 810 F.3d 631, 633 (9th Cir. 2015);
24 *Cacoperdo v. Demosthenes*, 37 F.3d 504, 507 (9th Cir. 1994) (“A [reply] is not the
25 proper pleading to raise additional grounds for relief.”). As the Court stated in the PI,
26 “Nothing prevents Petitioner from amending her petition to state a cognizable habeas
27 claim for which the relief she requests might be available to vindicate, or from seeking
28 such relief in proceedings before an appropriate executive agency.” Dkt. 20 at 6. Notably

1 since then, Petitioner has not sought to amend the Petition. There is no basis for
2 Petitioner to maintain this action to raise new grievances about the conditions of her
3 release or her proceedings in immigration court. See Dkt. 20, PI at p.6.

4 **IV. CONCLUSION**

5 Because Petitioner is no longer in custody, cannot show any continuing collateral
6 consequence that this Court could redress via habeas, and relies only on speculative
7 future harm, her habeas petition is rendered moot. Respondents respectfully submit that
8 Petitioner's Habeas Petition is now ripe for adjudication and should be denied.
9 Respondents do not believe that an evidentiary hearing is required.

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11 Dated: December 26, 2025

Respectfully submitted,

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