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**UNITED STATES DISTRICT COURT**

**DISTRICT OF OREGON**

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| **M-J-M-A-,**<br><br>Petitioner,<br><br>**v.**<br><br>**JULIO HERNANDEZ; TODD LYONS; U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT; MARKWAYNE MULLIN; U.S. DEPARTMENT OF HOMELAND SECURITY; TODD BLANCHE,**[1]<br><br>Respondents. | **Case No.: 6:25-cv-02011-MTK**<br><br>**RESPONDENTS' MOTION TO DISMISS COUNTS 1–6** |

[1] Pursuant to Fed. R. Civ. P. 25(d), Julio Hernandez is substituted for Laura Hermosillo as Acting Seattle Field Office Director, Immigration and Customs Enforcement and Removal Operations, Markwayne Mullin is substituted for Kristi Noem as Secretary of Department of Homeland Security, and Todd Blanche is substituted for Pamela Bondi as Acting United States Attorney General.

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## LR 7-1 CERTIFICATION

Pursuant to Local Rule 7-1, Respondents' counsel certifies that she conferred with Petitioner's counsel on February 19 about this motion and at that time, Petitioner indicated she would oppose this motion. On June 11, 2026, Respondents' counsel emailed Petitioner's counsel to confirm that Petitioner still opposed this motion. As of the filing of this motion, Petitioner's counsel has not responded to that inquiry.

## INTRODUCTION

Immigration officers arrested Petitioner M-J-M-A- for overstaying her visa in violation of the Immigration and Nationality Act ("INA"). Instead of pursuing custody redetermination before an immigration judge, she filed this habeas petition while she was detained in immigration custody, seeking release from custody and declarations that her stop, arrest, detention, transfer, and anticipated removal were unlawful. Immigration and Customs Enforcement ("ICE") released her shortly thereafter without conditions. She is not detained, is not subject to conditions of release or supervision, and has not been placed in removal proceedings based on the October 30, 2025, arrest. There is no custody left for habeas to remedy.

After her release, Petitioner supplemented her pleading to add Plaintiff Victor Cruz Gamez and class wide claims for prospective declaratory and injunctive relief challenging an alleged policy or practice governing warrantless civil immigration arrests in the District of Oregon. The Court has since provisionally certified the Unassessed Escape Risk Class and entered a preliminary injunction directed at those supplemental class claims.[2] Respondents-Defendants preserve their objections to that ruling. But the preliminary injunction does not resolve, and does not preserve, the original habeas counts. Those counts remain directed at Petitioner's completed arrest and past custody.

Counts 1 through 6 should therefore be dismissed. The only cognizable habeas remedy sought in the original petition—Petitioner's release from custody—has already been provided. To the extent Petitioner seeks declarations about a completed arrest or stop, those declarations are not cognizable habeas relief. And, to the extent Petitioner seeks review of issues that Congress committed to the immigration process, the INA strips this Court of jurisdiction. Accordingly, the Court should dismiss Counts 1 through 6.

## BACKGROUND

### A. Petitioner's Arrest & Habeas Petition

On October 30, 2025, DHS officers arrested Petitioner based on probable cause that she was in the United States in violation of the INA.[3] As a visa overstay, she was discretionarily detained under 8 U.S.C. § 1226(a). Dkt. 26 ¶¶ 4–5; Dkt. 34 ¶ 3. Noncitizens detained under 8 U.S.C. § 1226(a) may seek re-determination of custody from an Immigration Judge in what is known as a bond hearing, and if dissatisfied

[2] Petitioner-Plaintiff's operative pleading does not comply with LR 15-1(a)(3), which states a "supplemental pleading may not incorporate by reference any part of the prior pleading, including exhibits. The government interprets Petitioner-Plaintiff's noncompliant operative pleading to consist of Counts 1–6 as the still-pending habeas claims and Counts 7–9 as the class claims.

[3] Defendants incorporate by reference their Factual Background section in their preliminary injunction briefing. *See* Dkt. 70 at 4.

with the Immigration Judge's bond decision, a noncitizen can appeal to the Board of Immigration Appeals. 8 U.S.C. § 1226(a)(1); 8 C.F.R. §§ 1003.19, 236.1(d)(1), 1236.1(d). Bond proceedings are separate from removal proceedings, which are initiated by the filing of a Notice to Appear and allow a noncitizen to contest her removability including by challenging the admissibility of any evidence flowing from the arrest. 8 U.S.C. § 1229a(b)(4)(B); 8 C.F.R. §§ 1240.9, 1240.10(a)(4), (c), (d) (explaining procedures allowing the alien to admit or contest the allegations against her, make motions, and offer evidence).

Rather than seeking a bond hearing before an Immigration Judge, Petitioner sought release through a petition for Writ of Habeas Corpus asking this Court "to find that Respondents' attempts to detain, transfer, and deport Petitioner are arbitrary and capricious and in violation of the law." Dkt. 1 ¶ 9. The petition was grounded in the fact that Petitioner was "in custody" after having been "arrested and detained by Respondents." *Id.* ¶ 17. Petitioner argued that her arrest violated the statutory and constitutional process required for immigration officers to make a warrantless arrest. *Id.* ¶¶ 26–34, 42–48, 50–85. Counts 1 and 2 alleged that officers lacked reasonable suspicion to stop Petitioner. *Id.* ¶¶ 50–62. Counts 1, 3, and 4 alleged that officers lacked probable cause to arrest Petitioner in violation of the Fourth Amendment, 8 U.S.C. § 1357(a)(2), and 8 C.F.R. § 287.8(c)(2)(ii). *Id.* ¶¶ 50–56; 63–74. Count 5 alleged a violation of the *Nava* Broadcast Policy. *Id.* ¶¶ 75–80. And Count 6 alleged a Fifth Amendment due process violation for "Petitioner's arrest and continued detention." *Id.* ¶¶ 81–84. Petitioner asks this Court to declare the officers' conduct unlawful in various ways (Relief #4, 5, 6, 7) and to "[i]ssue a Writ of Habeas Corpus ordering Respondents to release Petitioner from custody" (Relief #8) along with unspecified "further relief this Court deems just and proper" (Relief #9). *Id.* at 19–20.

For clarity, Counts 1 through 6 are summarized below. Each arises from the same completed episode—Petitioner's October 30, 2025, stop, arrest, detention, transfer, and anticipated removal—and each seeks either release from custody or retrospective declarations concerning that episode.

| Count | Claim | What Petitioner Challenges | Why the Count Should Be Dismissed |
|---|---|---|---|
| 1 | Fourth Amendment | The October 30, 2025, stop and arrest, including alleged lack of reasonable suspicion and probable cause. | Petitioner has been released without conditions; any remaining request is a retrospective declaration about a completed stop and arrest, not habeas relief. |
| 2 | 8 C.F.R. § 287.8(c)(2)(ii) through the APA | The October 30, 2025, stop and arrest, including alleged lack of reasonable suspicion. | The challenged encounter is complete, and there is no present custody or release condition for habeas to remedy. |
| 3 | 8 U.S.C. § 1357(a)(2); 8 C.F.R. § 287.8(c)(2)(ii) through the APA | The October 30, 2025, arrest, including the alleged absence of probable cause that Petitioner had committed an immigration violation. | Petitioner is no longer detained and will not be placed in removal proceedings based on the October 30 arrest. |
| 4 | 8 U.S.C. § 1357(a)(2); 8 C.F.R. § 287.8(c)(2)(ii) through the APA | The October 30, 2025, arrest, including the alleged absence of probable cause that Petitioner was likely to escape before a warrant could be obtained. | The requested relief would adjudicate the legality of a past arrest; habeas does not provide freestanding retrospective declarations. |
| 5 | Nava Broadcast Policy through the APA | The alleged failure to comply with ICE policy during or after the October 30, 2025, arrest. | Any policy-based challenge to future practices belongs, if anywhere, in the supplemental class claims, not the original habeas counts. |

| Count | Claim | What Petitioner Challenges | Why the Count Should Be Dismissed |
|---|---|---|---|
| 6 | Fifth Amendment Due Process | Petitioner's October 30, 2025 stop, arrest, and continued detention. | The only cognizable habeas remedy for the continued detention challenge—release from custody—has already occurred, and no continuing restraint remains. |

On November 1, 2025, ICE released Petitioner in its discretion, without conditions. ICE has not initiated removal proceedings and has attested that it will not place Petitioner in removal proceedings based on the October 30 arrest. *See* Dkt. 26 ¶ 5.

On December 2 and 3, 2026, the Court held a two-day evidentiary hearing on the circumstances of Petitioner's stop and arrest. On January 12, 2026, the Court vacated the closing briefing schedule on the habeas petition to allow Petitioner to conduct additional documentary discovery. Dkt. 67.

**B. Supplemental Claims & Preliminary Injunctive Relief**

On January 9, 2026, Petitioner filed a motion to supplement her pleadings to add class claims, among other motions. Dkt. 59. Petitioner's motion to supplement the habeas petition conceded that ICE had "released" her. *Id.* at 1. She thus moved to "supplement" her habeas petition to cover *risk* of *future* unlawful arrest and detention, arguing that "[s]upplementation is necessary to ensure that complete relief can be afforded to Petitioner, which is only possible by means of a class action that adjudicates the legality of DHS's widespread policy and practices of engaging in warrantless arrests in Oregon." *Id.* at 2. The Supplemental Complaint was necessary, she said, to speedily dispose of "the entire controversy between the parties." *Id.* at 5. Petitioner filed motions for class certification and for a preliminary injunction asking this Court to afford class wide injunctive relief against an asserted "policy or practice of making warrantless civil immigration arrests in the District of Oregon without a pre-arrest individualized determination." Dkt. 60, 61 at 31–32.

On February 4, 2026, this Court granted Petitioner's motion for preliminary injunction and provisionally certified the unassessed escape risk class. Dkt. 82. It generally granted the relief requested in the injunction and supplemental injunction pleadings. *Id.* Nevertheless, Petitioner's habeas claims remain unadjudicated. They should be dismissed. The only cognizable relief requested in her habeas petition—release—has already been achieved, so her claim is moot. This Court otherwise lacks subject matter jurisdiction to consider the claims in the petition. Her unconditional release already remedied her claim. By Petitioner's own admission, the injunction has "afforded" her "complete relief."

## LEGAL STANDARD

Federal courts are courts of limited jurisdiction and "possess only that power authorized by Constitution and statute." *Exxon Mobil Corp. v. Allapattah Servs., Inc.*, 545 U.S. 546, 552 (2005) (quotation marks omitted). A court must dismiss an action whenever it determines that subject-matter jurisdiction is lacking. Fed. R. Civ. P. 12(h)(3). An objection to subject-matter jurisdiction, including mootness, may be raised at any stage of the litigation. *Arbaugh v. Y & H Corp.*, 546 U.S. 500, 506 (2006).

A motion to dismiss for lack of subject-matter jurisdiction is governed by Rule 12(b)(1). In resolving a Rule 12(b)(1) motion, the Court may consider evidence outside the pleadings when jurisdictional facts are disputed. *Safe Air for Everyone v. Meyer*, 373 F.3d 1035, 1039 (9th Cir. 2004). The party invoking federal jurisdiction bears the burden of establishing that jurisdiction exists. *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994).

Mootness is a threshold jurisdictional issue. *S. Pac. Transp. Co. v. Pub. Util. Comm'n of State of Or.*, 9 F.3d 807, 810 (9th Cir. 1993). Article III requires a live case or controversy at all stages of the litigation. *Spencer v. Kemna*, 523 U.S. 1, 7 (1998). A habeas petition becomes moot when the petitioner has received the relief habeas can provide and no concrete collateral consequence remains. *See Abdala v. INS*, 488 F.3d 1061, 1064–65 (9th Cir. 2007). Speculative future injury is insufficient; the petitioner must show a continuing injury that is "likely to be redressed by a favorable judicial decision." *Spencer*, 523 U.S. at 7.

To the extent dismissal rests on the legal insufficiency of Petitioner's habeas theories, Rule 12(b)(6) supplies the applicable standard. A complaint must contain sufficient factual matter to state a claim for relief that is plausible on its face. *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). The Court accepts well-pleaded factual allegations as true but need not accept legal conclusions couched as factual allegations. *Id.* Habeas relief under 28 U.S.C. § 2241 is limited to challenges to custody; it is not a freestanding vehicle for retrospective declarations about completed government action where no custody remains to remedy. *See Preiser v. Rodriguez*, 411 U.S. 475, 486 (1973); *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 117 (2020).

Finally, where Congress has withdrawn or channeled jurisdiction through the INA, the Court must enforce those statutory limits. *See* 8 U.S.C. § 1252(a)(5), (b)(9), (g); *J.E.F.M. v. Lynch*, 837 F.3d 1026, 1031–34 (9th Cir. 2016). Those jurisdictional limits are independent grounds for dismissal when a plaintiff seeks district-court review of immigration-related questions Congress committed to the immigration process and petition-for-review process.

## ARGUMENT

### I. Counts 1 through 6 are moot because M-J-M-A has already received the only cognizable habeas remedy: release from custody.

"Mootness is a threshold jurisdictional issue." *S. Pac. Transp. Co. v. Pub. Util. Comm'n of State of Or.*, 9 F.3d 807, 810 (9th Cir. 1993). A case is moot when "it no longer present[s] a case or controversy under Article III, § 2 of the Constitution." *Spencer v. Kemna*, 523 U.S. 1, 7 (1998). That rule applies with particular force in habeas, where the traditional office of the writ is to test whether a person is unlawfully restrained and, if so, to order release from that restraint. *See Thuraissigiam*, 591 U.S. at 117; *Preiser v. Rodriguez*, 411 U.S. 475, 486 (1973).

M-J-M-A-'s habeas petition no longer presents a live custody dispute. She filed the petition while detained and sought, among other relief, a writ ordering her release from custody. Dkt. 1 at 19–20. ICE then released her without conditions. Dkt. 26 ¶ 5. She is not detained. She is not subject to supervision. She is not subject to conditions of release. *Id.* And ICE has represented that it has not initiated removal proceedings against her and will not place her in removal proceedings based on the October 30, 2025, arrest. *Id.*

### A. Petitioner is no longer in custody and suffers no continuing restraint from the challenged detention.

Habeas relief requires an actual injury that is "likely to be redressed by a favorable judicial decision." *Spencer*, 523 U.S. at 7. Here, the favorable habeas remedy M-J-M-A- sought was release from immigration custody. She has already received that relief. Because "successful resolution" of the habeas petition "could no longer provide the requested relief," the habeas claims are moot. *Abdala*, 488 F.3d at 1065.

Nor is there any continuing restraint that could preserve a live habeas controversy. Release from custody moots a habeas petition unless the petitioner shows a continuing "collateral consequence" from the challenged custody. *Spencer*, 523 U.S. at 7. A qualifying collateral consequence must be a "concrete and continuing injury" flowing from the basis of the habeas challenge. *Id.* Speculation is not enough. The Supreme Court has rejected alleged collateral consequences resting on a mere "possibility rather than a certainty or even probability," *id.* at 14, or on a chain of contingencies "purely a matter of speculation," *id.* at 16.

Petitioner has identified no concrete post-release restraint resulting from her prior detention. She is not subject to an order of supervision, reporting requirements, electronic monitoring, bond conditions, or any temporal restriction on her liberty. Dkt. 26 ¶ 5. She is not in removal proceedings based on the October 30 arrest. *Id.*

And her arrest has not altered her ability to seek immigration relief for which she may be eligible. The petition therefore does not present the kind of continuing custody injury habeas exists to redress.

The Ninth Circuit's immigration habeas decisions confirm that result. In *Abdala*, the petitioner's removal mooted his habeas challenge to the length of immigration detention because the relief he sought had been fully resolved by his release from custody, and he identified no collateral consequence that habeas could redress. 488 F.3d at 1064–65. Likewise, in *Jauregui-Garcia v. Garland*, the Ninth Circuit held that release mooted a challenge to immigration detention even though 8 U.S.C. § 1226(a) theoretically allowed for future discretionary detention: "Although the discretionary redetainment provisions of § 1226(a) raise the possibility that [the petitioner] may be redetained in the future, this possibility does not prolong a live case or controversy." 850 F. App'x 536, 537 (9th Cir. 2021); *see also Alam v. Carter*, 843 F. App'x 953, 954 (9th Cir. 2021) ("Any risk of re-detention does not save his petition from mootness . . . ."); *Corral v. Barr*, 776 F. App'x 953, 954 (9th Cir. 2019) (rejecting collateral-consequences theory based on speculation that a prior bond determination might be erroneously used in future proceedings).

This case is even cleaner. Petitioner is not merely released on bond, parole, or supervision; she is released without conditions. Dkt. 26 ¶ 5. And ICE has represented that it will not place her in removal proceedings based on the arrest she challenges here. *Id.* The possibility that immigration authorities might someday take some future enforcement action based on some independent basis is too speculative to preserve an individual habeas petition directed to past custody.

The cases finding continuing collateral consequences are materially different. Some involved release subject to ongoing restraints. *See Rodriguez v. Hayes*, 591 F.3d 1105, 1117 (9th Cir. 2010) (release subject to revocation without notice); *A.B.D., C.C.S. v. Wamsley*, No. 6:25-cv-02014-AA, 2026 WL 178306, at *7–8 (D. Or. Jan. 22, 2026) (petitioners released with ankle monitors and enrolled in the Intensive Supervision Appearance Program); *N-E-M-B v. Wamsley*, No. 3:25-cv-989-SI, 2025 WL 3527111, at *5 (D. Or. Dec. 9, 2025) (petitioner released on "interim parole" subject to caveats); *J-C-R-M v. Wamsley*, No. 3:25-cv-990-SI, 2025 WL 3527108, at *3 (D. Or. Dec. 9, 2025) (petitioner released on "interim parole" subject to terms and conditions). Others involved new legal disabilities triggered by removal. *See Zegarra-Gomez v. INS*, 314 F.3d 1124, 1127 (9th Cir. 2003) (post-removal bar on reentry and relief); *Handa v. Clark*, 401 F.3d 1129, 1132–33 (9th Cir. 2005) (ten-year bar on reentry).

None of those circumstances exist here. Petitioner is free from immigration custody, free from release conditions, and not in removal proceedings based on the challenged arrest. Her habeas claims are therefore moot.

### B. The supplemental class claims and preliminary injunction do not preserve the original habeas counts.

The later procedural history does not change the mootness analysis. After ICE released Petitioner, she supplemented her pleading to add Victor Cruz Gamez and class wide claims for prospective declaratory and injunctive relief challenging an alleged policy or practice governing warrantless civil immigration arrests in the District of Oregon. The Court has since provisionally certified the Unassessed Escape Risk Class and entered a preliminary injunction directed to those supplemental class claims. Defendants preserve their objections to that ruling.

But the preliminary injunction does not preserve Counts 1 through 6. The original habeas counts were filed by Petitioner while she was detained. They challenged her completed stop, arrest, detention, transfer, and anticipated removal. They sought release from custody. Dkt. 1 at 19–20. The supplemental claims are different. They seek prospective class wide relief directed to alleged future arrest practices. Whatever controversy may remain as to the supplemental class claims, it does not keep alive an individual habeas petition after the petitioner has been unconditionally released.

Petitioner may contend that the Court's preliminary injunction standing analysis establishes a continuing controversy. But that analysis addressed prospective relief on the later-added class claims. It did not decide whether Petitioner's original habeas counts continue to present a live custody dispute after her unconditional release. Those are distinct Article III inquiries. A Petitioner's asserted exposure to future enforcement practices may be relevant to prospective injunctive relief; it does not supply present custody for habeas purposes.

That distinction is dispositive here. Counts 1 through 6 cannot be maintained as a vehicle for litigating broad prospective relief that was later added through the supplemental pleading. Nor can they be used to obtain retrospective declarations about a completed arrest after the *only* cognizable habeas remedy—release—has already occurred. The supplemental claims may proceed or fail on their own terms, but they do not preserve the original habeas counts.

**C. No exception to mootness applies.**

No mootness exception preserves Counts 1 through 6. The two potentially relevant exceptions—voluntary cessation and capable of repetition yet evading review—are exceptionally narrow, and neither applies here. The original habeas counts challenge Petitioner's custody arising from the October 30, 2025, arrest. That custody has ended. Petitioner was released without conditions, is not subject to supervision, and will not be placed in removal proceedings based on that arrest. Dkt. 26 ¶ 5. There is therefore no recurring custody injury for habeas to remedy and no basis for continuing to litigate retrospective arrest-based declarations through Counts 1 through 6.

The voluntary-cessation exception does not apply. A party asserting mootness based on its own voluntary conduct bears the "heavy burden" of showing that the challenged conduct cannot reasonably be expected to recur. *Friends of the Earth, Inc. v. Laidlaw Env't Servs. (TOC), Inc.*, 528 U.S. 167, 189–90 (2000). But that standard is more than satisfied here. The relevant conduct for purposes of the original habeas counts is not every possible future immigration arrest that may occur in Oregon; it is Petitioner's custody arising from the October 30 arrest and the requested habeas remedy of release from that custody. ICE has released Petitioner without conditions, has not initiated removal proceedings based on the October 30 arrest, and has represented that it will not place Petitioner in removal proceedings based on that arrest. Dkt. 26 ¶ 5.

Those facts make clear that the same challenged custody will not recur. Petitioner cannot again be detained based on the same completed October 30 custody episode. Nor can she show that ICE's release merely paused the same habeas injury while leaving her subject to an imminent return to the same custody. The Ninth Circuit's decision in *Picrin-Peron* is instructive. There, the court dismissed an immigration habeas appeal as moot after the petitioner was released, explaining that, even assuming the voluntary-cessation exception could apply in habeas, the government's sworn assurance showed that the alleged wrong would not recur and the petitioner had requested only release from custody. *Picrin-Peron v. Rison*, 930 F.2d 773, 775–76 (9th Cir. 1991). The same reasoning applies with greater force here: Petitioner has been released without conditions, and ICE has represented that it will not pursue removal proceedings against her based on the arrest she challenges in Counts 1 through 6.

Nor is this case "capable of repetition, yet evading review." That exception "applies only in exceptional situations" where two circumstances are simultaneously present: "(1) the challenged action [is] in its duration too short to be fully litigated prior to cessation or expiration," and "(2) there [is] a reasonable expectation that the same complaining party [will] be subject to the same action again." *Spencer*, 523 U.S. at 17 (alterations in original) (quotation marks omitted). Petitioner bears the burden of establishing the second requirement. *Native Vill. of Nuiqsut v. Bureau of Land Mgmt.*, 9 F.4th 1201, 1209 (9th Cir. 2021); *Lee v. Schmidt-Wenzel,* 766 F.2d 1387, 1390 (9th Cir. 1985).

Petitioner cannot carry that burden. There is no reasonable expectation that M-J-M-A- herself will again be stopped, arrested without a warrant, detained, transferred, and held in custody based on the October 30 arrest or the same asserted defects. ICE has represented that it will not place her in removal proceedings based on that arrest. Dkt. 26 ¶ 5. Any recurrence theory would require a chain of contingencies: a future encounter with immigration officers; a future warrantless arrest; a future failure to make the required individualized "likely to escape" determination; future detention rather than release; and no intervening custody redetermination by an immigration judge. Article III does not permit a completed habeas case to proceed on that speculative basis. *See Spencer*, 523 U.S. at 14–17; *Jauregui-Garcia v. Garland*, 850 F. App'x 536, 537 (9th Cir. 2021) ("Although the discretionary redetainment provisions of § 1226(a) raise the possibility that [the petitioner] may be redetained in the future, this possibility does not prolong a live case or controversy because . . . redetainment under § 1226(a) may never come to fruition."); *Alam v. Carter*, 843 F. App'x 953, 954 (9th Cir. 2021) ("Any risk of re-detention does not save his petition from mootness . . . .").

Petitioner also cannot show that the challenged action necessarily evades review. If immigration authorities initiate removal proceedings in the future, the INA and implementing regulations provide avenues to contest removability, seek custody redetermination where available, and raise suppression or other legal arguments before an immigration judge and any subsequent appeals, including a petition for review to the appropriate federal circuit court. *See* 8 U.S.C. § 1229a(b)(4)(B); 8 C.F.R. §§ 1003.19, 1240.9, 1240.10(a)(4), (c), (d). And to the extent Petitioner seeks prospective relief against alleged future arrest practices, those issues are being litigated through the supplemental class claims, and she is protected by the preliminary injunction that remains in effect. The existence of those separate prospective claims does not save the original habeas counts; it confirms that Counts 1 through 6 are not the proper vehicle for prospective class wide relief after Petitioner's unconditional release.

Counts 1 through 6 are therefore moot. M-J-M-A- sought habeas relief from custody. She has been released without conditions, is not subject to supervision, and is not in removal proceedings based on the challenged arrest. Because there is no custody left for habeas to remedy, the Court should dismiss Counts 1 through 6.

## II. Petitioner's remaining requests for declarations about a completed stop and arrest are not cognizable in habeas.

Counts 1 through 6 should also be dismissed because the remaining relief Petitioner seeks is not cognizable in habeas. Habeas remedies unlawful custody. It does not provide a freestanding vehicle to obtain declarations that a completed stop, arrest, transfer, or detention was unlawful after the petitioner has already been released from custody.

Petitioner's original petition sought two categories of relief: release from immigration custody and declarations that the officers' conduct was unlawful. Dkt. 1

at 19–20. The first category is moot because Petitioner has already been released without conditions. The second category is not habeas relief. Once custody has ended, the habeas petition cannot be maintained merely to obtain retrospective declarations about the legality of a completed immigration arrest.

### A. Habeas remedies unlawful custody through release, not retrospective declarations about a completed arrest.

The traditional function of habeas is to determine whether a person is unlawfully restrained and, if so, to order release from that restraint. *See Preiser v. Rodriguez*, 411 U.S. 475, 486 (1973) (explaining that the habeas "grievance" is that the petitioner "is being unlawfully subjected to physical restraint"); *Thuraissigiam*, 591 U.S. at 117 (explaining habeas is the appropriate remedy to determine "whether any person is rightfully in confinement or not"). Habeas does not exist to provide advisory or retrospective declarations about past government conduct when no custody remains to remedy.

That distinction matters here. Counts 1 through 6 challenge the legality of Petitioner's stop, arrest, detention, transfer, and anticipated removal. But Petitioner is no longer detained. She is not subject to conditions of release or supervision. And ICE has represented that it will not place her in removal proceedings based on the October 30 arrest. Dkt. 26 ¶ 5. In that posture, a declaration that the completed stop or arrest was unlawful would not terminate custody, accelerate release, or reduce any present restraint on Petitioner's liberty. It would only adjudicate the legality of past conduct. That is not cognizable habeas relief.

The Supreme Court has repeatedly distinguished habeas relief from claims that do not seek release from custody or a reduction in custody. *See Wilkinson v. Dotson*, 544 U.S. 74, 86 (2005) (Scalia, J., concurring) ("[I]t is one thing to say that permissible habeas relief . . . includes ordering a quantum change in the level of custody, such as release from incarceration to parole. It is quite another to say that the habeas statute authorizes federal courts to order relief that neither terminates custody, accelerates the future date of release from custody, nor reduces the level of custody."); *Skinner v. Switzer*, 562 U.S. 521, 534 (2011) (noting that the Court has never recognized habeas as "the sole remedy, or even an available one," where the relief sought would not terminate custody, accelerate release, or reduce the level of custody).

Petitioner's remaining requests fall on the non-habeas side of that line. They seek declarations about the legality of a completed enforcement action *after* the custody resulting from that action has ended. Because habeas cannot provide that relief, Counts 1 through 6 should be dismissed.

### B. An allegedly unlawful arrest does not by itself entitle a person to habeas release.

Petitioner's habeas theory also fails for a second reason: even if an arrest were unlawful, the ordinary remedy would not be habeas release. The Supreme Court has long held that the legality of a person's arrest generally does not determine the government's authority to proceed against that person. In the immigration context, "[t]he 'body' or identity of a defendant or respondent in a criminal or civil proceeding is never itself suppressible as a fruit of an unlawful arrest, even if it is conceded that an unlawful arrest, search, or interrogation occurred." *INS v. Lopez-Mendoza*, 468 U.S. 1032, 1039 (1984). Likewise, in the criminal context, "judicial proceedings need not abate when the defendant's person is unconstitutionally seized." *Stone v. Powell*, 428 U.S. 465, 485 (1976) (citing *Gerstein v. Pugh*, 420 U.S. 103, 119 (1975), and *Frisbie v. Collins*, 342 U.S. 519, 522 (1952)). The Ninth Circuit has applied the same principle. *See United States v. Garcia-Beltran*, 443 F.3d 1126, 1132 (9th Cir. 2006) ("[T]here is no sanction to be applied when an illegal arrest only leads to discovery of the man's identity." (quotation omitted)); *Corley v. Cardwell*, 544 F.2d 349, 351 (9th Cir. 1976) ("[F]ederal habeas relief cannot be predicated on claimed illegality of the search and seizure.").

District courts addressing immigration habeas petitions have reached the same conclusion. *See Marroquin Salazar v. Noem*, No. 5:25-cv-02367-FLA (JC), 2025 WL 3535050, at *1 (C.D. Cal. Dec. 8, 2025) (adopting report and recommendation rejecting habeas relief based on alleged unlawful arrest); *Rodrigues De Oliveira v. Joyce*, No. 2:25-cv-00291-LEW, 2025 WL 1826118, at *5 (D. Me. July 2, 2025) ("Petitioner's argument that an illegal arrest automatically results in an illegal detention is misguided. . . . [E]ven if Petitioner's initial arrest was unlawful, her detention pending removal may stand."); *Alonso-Portillo v. Bondi*, No. 1:25-cv-306, 2025 WL 2483393, at *11 (S.D. Ohio Aug. 28, 2025) ("Traditional application of the exclusionary rule results in the suppression of evidence . . . . But the rule does not . . . dictate his immediate release from detention."); *Marvan v. Slaughter*, No. CV 25-49-H-DLC, 2025 WL 1940043, at *3–4 (D. Mont. July 15, 2025) (rejecting habeas relief based on alleged Fourth Amendment violation where removal proceedings had commenced); *H.N. v. Warden, Stewart Det. Ctr.*, No. 7:21-cv-59-HL-MSH, 2021 WL 4203232, at *5 (M.D. Ga. Sept. 15, 2021) ("[E]ven if the Court accepted Petitioner's argument that his initial detention was somehow unlawful, he is still not entitled to habeas relief."); *Reyes v. Hermosilla*, No. C25-2525-JNW-MLP, 2026 WL 528692, at *3 (W.D. Wash. Jan. 15, 2026) ("Accordingly, Petitioner's claims alleging constitutional violations arising out of his stop, arrest, and detention by ICE officers on November 8, 2025, should be dismissed as the claims are not cognizable in this federal habeas action.").

The same is true in cases involving immigration detainees who alleged unlawful arrests. In *Medina v. U.S. Department of Homeland Security*, the court held that an immigration detainee was not entitled to habeas relief because "the remedy for an unlawful arrest in violation of the Fourth Amendment is suppression of evidence," and if he "desire[d] release from his current detention, his avenue for seeking such release should occur in the context of his removal proceedings." No. C17-218, 2017 WL 1101370, at *1–2 (W.D. Wash. Mar. 24, 2017). And in *Amezcua-Gonzalez v. Lobato*, the court dismissed a habeas petition challenging an immigration arrest on Fourth Amendment grounds, explaining that "even if petitioner's arrest amounts to an egregious Fourth Amendment violation, he is not entitled to habeas relief." No. C16-979-RAJ-JPD, 2016 WL 6892934, at *2 (W.D. Wash. Oct. 6, 2016), *report and recommendation adopted,* 2016 WL 6892547 (W.D. Wash. Nov. 22, 2016); *see also Nyuwa v. Gurule*, No. CV 13-0896-PHX-JAT, 2014 WL 12984435, at *1 (D.

Ariz. June 13, 2014) (holding allegedly unlawful arrest did not invalidate current immigration detention because identity is not suppressible as the fruit of unlawful arrest).

Those authorities foreclose Petitioner's theory here. Petitioner alleges defects in the stop and arrest, including under the Fourth Amendment, 8 U.S.C. § 1357(a)(2), 8 C.F.R. § 287.8(c)(2)(ii), the Administrative Procedure Act ("APA"), and due process. But even if those allegations were accepted, they would not establish a present right to habeas relief after unconditional release. At most, they would support arguments about the admissibility or use of evidence if removal proceedings were initiated. They do not support continued adjudication of Counts 1 through 6 as habeas claims.

### C. Any challenge to evidence obtained through the arrest belongs, if anywhere, in immigration proceedings and the petition-for-review process.

The ordinary mechanism for challenging evidence allegedly obtained through an unlawful immigration arrest is a motion to suppress in immigration proceedings, followed by judicial review through a petition for review if necessary. The INA and its implementing regulations allow noncitizens in removal proceedings to contest allegations, make motions, present evidence, and challenge removability. *See* 8 U.S.C. § 1229a(b)(4)(B); 8 C.F.R. §§ 1240.9, 1240.10(a)(4), (c), (d).

The Ninth Circuit routinely reviews claims that immigration officers obtained evidence through unlawful stops, arrests, or interrogations in petitions for review from removal proceedings. *See B.R. v. Garland*, 26 F.4th 827, 841 (9th Cir. 2022) (reviewing denial of motion to suppress evidence allegedly obtained unlawfully);

*Perez Cruz v. Barr*, 926 F.3d 1128, 1135–38 (9th Cir. 2019) (reviewing suppression claim involving alleged unlawful arrest and interrogation); *Sanchez v. Sessions*, 904 F.3d 643, 649–57 (9th Cir. 2018) (holding that suppression and termination may be appropriate in removal proceedings in the context of egregious regulatory violations); *see also Martinez-Medina v. Holder*, 673 F.3d 1029, 1033–34 (9th Cir. 2011) (addressing suppression standards in removal proceedings).

That review structure confirms that habeas is not the proper vehicle for Petitioner's arrest-based claims. If ICE had initiated removal proceedings based on the October 30 arrest, Petitioner could have raised appropriate challenges to evidence allegedly obtained from that arrest in immigration court and, if necessary, in the court of appeals. But ICE did not do so. That decision benefits Petitioner by eliminating the immediate threat of removal proceedings based on that arrest. It does not create a new habeas remedy.

Nor can Petitioner use the absence of removal proceedings to transform a completed arrest into a live habeas case. Habeas does not provide retrospective declarations untethered to present custody. And because Petitioner is not in removal proceedings based on the October 30 arrest, there is no present use of allegedly tainted evidence for this Court to remedy through habeas.

### D. Any forward-looking challenge to arrest practices belongs, if anywhere, in the supplemental claims, not Counts 1 through 6.

Finally, to the extent Petitioner seeks prospective relief concerning future warrantless arrest practices, that request belongs, if anywhere, in the supplemental class claims, not in the original habeas counts. The original petition was filed while

Petitioner was detained and sought release from that detention. Counts 1 through 6 challenge her completed stop, arrest, detention, transfer, and anticipated removal. They do not provide an independent habeas vehicle for ongoing supervision of future arrest practices after Petitioner's release.

This case's subsequent procedural history does not change the nature of those original counts. Petitioner supplemented her pleading to add class wide claims for prospective relief, and the Court has entered a preliminary injunction on those supplemental claims. Defendants preserve their objections to that injunction. But the existence of supplemental claims for prospective relief does not make retrospective arrest declarations cognizable in habeas. Nor does it create present custody where none exists.

Counts 1 through 6 therefore should be dismissed. Petitioner has already received the only cognizable habeas remedy she sought: release from custody. Her remaining requests for declaratory relief about a completed stop and arrest are not, and were never, appropriate habeas relief. And any prospective challenge to alleged future arrest practices is not part of the original habeas petition.

## III. The INA independently forecloses district court habeas review of Petitioner's remaining arrest-based theories.

Counts 1 through 6 should also be dismissed because Petitioner's remaining arrest-based theories do not belong in a district-court habeas proceeding. Even apart from mootness and habeas non-cognizability, Congress has established a comprehensive review scheme for immigration matters. That scheme channels removal-related legal and factual questions into immigration proceedings and, ultimately, judicial review in the court of appeals. It does not permit a released petitioner to use habeas as a substitute vehicle for retrospective district-court review of a completed immigration arrest.

This argument is independent of Respondents-Defendants' objections to the preliminary injunction. The Court has provisionally certified a class and entered preliminary injunctive relief on Plaintiffs' supplemental claims for prospective class wide relief. Respondents-Defendants preserve their objections to that ruling. But the original habeas counts remain subject to the INA's jurisdictional limits. Those limits preclude using Counts 1 through 6 to obtain district court review of arrest-related issues that Congress has committed to the immigration process or to the Executive's discretion over whether to commence removal proceedings.

### A. Sections 1252(a)(5) and 1252(b)(9) channel removal-related legal and factual questions to immigration proceedings and petition-for-review review.

The INA "consolidate[d] judicial review of immigration proceedings into one action in the court of appeals." *Guerrero-Lasprilla v. Barr*, 589 U.S. 221, 233 (2020) (citation omitted). Section 1252(b)(9), sometimes called the "zipper clause," provides:

> Judicial review of all questions of law and fact, including interpretation and application of constitutional and statutory provisions, arising from any action taken or proceeding brought to remove an alien from the United States under this subchapter shall be available only in judicial review of a final order under this section. Except as otherwise provided in this section, no court shall have jurisdiction, by habeas corpus under section 2241 of title 28 or any other habeas corpus provision . . . or by any other provision of law . . . to review such an order or such questions of law or fact.

8 U.S.C. § 1252(b)(9). Section 1252(a)(5) likewise provides that a petition for review filed with the appropriate court of appeals is the "sole and exclusive means for judicial review of an order of removal." 8 U.S.C. § 1252(a)(5).

Together, those provisions reflect Congress's judgment that removal-related issues generally should proceed through immigration proceedings and then to the court of appeals, not through piecemeal district court litigation. *See J.E.F.M. v. Lynch*, 837 F.3d 1026, 1031–34 (9th Cir. 2016). "Taken together, § 1252(a)(5) and § 1252(b)(9) mean that *any* issue—whether legal or factual—arising from *any* removal-related activity can be reviewed *only* through the PFR process." *Id.* at 1031 (emphasis in original). That channeling rule applies to constitutional, statutory, regulatory, and legal questions that can be raised in immigration proceedings and later reviewed by the court of appeals. *Id.* at 1031–34.

Petitioner's arrest-based theories fall within that framework. Counts 1 through 6 ask this Court to decide whether officers had reasonable suspicion to stop M-J-M-A-, whether they had probable cause to arrest her, whether they complied with 8 U.S.C. § 1357(a)(2) and 8 C.F.R. § 287.8(c)(2)(ii), whether they complied with agency policy, and whether the arrest and resulting detention violated due process. Dkt. 1 ¶¶ 50–85. Those are legal and factual questions about civil immigration enforcement and potential removal. If removal proceedings are initiated, those questions can be addressed in the immigration process and reviewed through the petition-for-review channel Congress prescribed.

That is how arrest-related suppression and evidentiary issues are ordinarily litigated. Noncitizens in removal proceedings may contest allegations, make motions, present evidence, and challenge removability. *See* 8 U.S.C. § 1229a(b)(4)(B); 8 C.F.R. §§ 1240.9, 1240.10(a)(4), (c), (d). The Ninth Circuit regularly reviews claims that immigration officers obtained evidence through unlawful stops, arrests, or interrogations in petitions for review from removal proceedings. *See B.R. v. Garland*, 26 F.4th 827, 841 (9th Cir. 2022); *Perez Cruz v. Barr*, 926 F.3d 1128, 1135–38 (9th Cir. 2019); *Sanchez v. Sessions*, 904 F.3d 643, 649–57 (9th Cir. 2018); *Martinez-Medina v. Holder*, 673 F.3d 1029, 1033–34 (9th Cir. 2011). That review path confirms that habeas is not the proper vehicle for adjudicating Petitioner's remaining arrest-based theories.

Courts applying § 1252(b)(9) have recognized that claims capable of meaningful review through the immigration process must proceed through that process. *See Aguilar v. U.S. Immigr. & Customs Enf't Div. of Dep't of Homeland Sec.*, 510 F.3d 1, 11 (1st Cir. 2007) (claims that "can be raised in removal proceedings and eventually brought to the court of appeals for judicial review" fall within § 1252(b)(9)); *Gicharu v. Carr*, 983 F.3d 13, 16 (1st Cir. 2020) (explaining claims that cannot be raised in removal proceedings and later reviewed on a petition for review are "independent of, or wholly collateral to, the removal process," but claims that can be reviewed there are channeled); *Cheng Fan Kwok v. INS*, 392 U.S. 206, 217 (1968) (matters governed by regulations applicable to deportation proceedings and ordinarily presented to the immigration judge fall within direct appellate review).

The Ninth Circuit's cases recognizing exceptions to § 1252(b)(9) do not help Petitioner. Those cases involve claims that could not be meaningfully raised through the petition-for-review process. *See Ibarra-Perez v. United States*, 154 F.4th 989, 1000 (9th Cir. 2025) (challenge to post-hearing removal to a country not identified in the removal order could not have been contested through the ordinary petition-for-review process); *Singh v. Gonzales*, 499 F.3d 969, 979 (9th Cir. 2007) (ineffective assistance claim based on counsel's failure to file a petition for review rested on facts occurring after the final removal order and deprived petitioner of direct review). By contrast, Petitioner's claims concern the legality of a civil immigration stop and arrest and the potential use of evidence obtained from that arrest, which are issues that can be litigated in immigration proceedings if such proceedings are initiated.

District courts have applied that same principle to reject habeas or district court review of immigration arrest claims that should be litigated through the Congressionally mandated administrative immigration process. *See Marvan v. Slaughter*, 2025 WL 1940043, at *4 (D. Mont. July 15, 2025) (finding § 1252(b)(9) stripped jurisdiction over claims that an arrest was predicated on racial profiling and that immigration officers interfered with right to counsel before transfer because petitioner could not bypass immigration courts and proceed directly to district court); *Cancino-Castellar v. Nielsen*, 338 F. Supp. 3d 1107, 1115–16 (S.D. Cal. 2018) (finding § 1252(b)(9) stripped jurisdiction over Fourth Amendment challenge to non-presentment to an immigration judge within 48 hours of detention because the claim raised legal and factual questions arising from an action taken to remove petitioner), reconsideration denied sub nom., *Castellar v. Mayorkas*, No. 17-cv-00491-BAS-AHG, 2021 WL 3856488 (S.D. Cal. Aug. 30, 2021).

The current posture of this case makes the argument even stronger. ICE has released Petitioner without conditions and has represented that it will not place her in removal proceedings based on the October 30 arrest. Dkt. 26 ¶ 5. That means there is no current removal proceeding, no removal order, no present use of allegedly tainted evidence, and no custody for habeas to remedy. If removal proceedings are never initiated based on the October 30 arrest, Petitioner suffers no removal-related injury from that arrest requiring habeas intervention. If proceedings are later initiated on some independent basis, Petitioner may raise any properly preserved arguments in that forum and through the petition-for-review process. What she may not do is use habeas to obtain retrospective district court review of a completed arrest after her release from custody.

### B. Section 1252(g) bars review of decisions to commence, decline to commence, or abandon removal proceedings.

Section 1252(g) independently bars jurisdiction to the extent Petitioner's claims seek review of the Executive's decision whether to commence or abandon removal proceedings. That provision states that, "[e]xcept as provided in this section," no court has jurisdiction to hear any claim "arising from the decision or action by the Attorney General to commence proceedings, adjudicate cases, or execute removal orders against any alien." 8 U.S.C. § 1252(g).

The Supreme Court has explained that § 1252(g) applies to "three discrete actions" that are central to the Executive's immigration-enforcement discretion: the decision or action to "commence proceedings, adjudicate cases, or execute removal orders." *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482–83 (1999). Those decisions include the discretion to decide whether and when to pursue removal proceedings, as well as the discretion to abandon them. *Id.* at 483–84. The Court emphasized that such prosecutorial decisions are "particularly ill-suited to judicial review" and that those concerns are "greatly magnified in the deportation context." *Id.* at 489–90.

The Ninth Circuit has applied the same principle. *See Cortez-Felipe v. INS*, 245 F.3d 1054, 1057 (9th Cir. 2001) ("The Attorney General has discretion regarding when and whether to initiate deportation proceedings."); *Jimenez-Angeles v. Ashcroft*, 291 F.3d 594, 599 (9th Cir. 2002) ("We construe § 1252(g), which removes our jurisdiction over 'decisions to commence proceedings,' to include not only a decision in an individual case *whether* to commence, but also *when* to commence, a proceeding.") (emphasis in original).

That principle matters here. ICE has not initiated removal proceedings against Petitioner based on the October 30 arrest and has represented that it will not do so. Dkt. 26 ¶ 5. To the extent Petitioner seeks review of that decision, § 1252(g) bars review. The government's decision not to commence proceedings based on the challenged arrest is a discretionary enforcement decision. It cannot be converted into a basis for continuing habeas jurisdiction.

Section 1252(g) also prevents Petitioner from using the original habeas counts to obtain judicial supervision over whether, when, or how ICE may pursue removal-related enforcement decisions. The petition challenged ICE's "attempts to detain, transfer, and deport" Petitioner and sought declarations concerning the legality of the steps leading toward possible removal. Dkt. 1 ¶ 9. Those theories are tied to the commencement and execution of the removal process. Section 1252(g) prevents district courts from reviewing such claims merely because they are framed as constitutional, statutory, regulatory, or policy challenges. *See AADC*, 525 U.S. at 487–92.

Nothing about ICE's decision not to proceed against Petitioner based on the October 30 arrest creates habeas jurisdiction. That decision eliminated the immediate prospect of removal proceedings based on the arrest. It did not create a live custody controversy or authorize retrospective district-court review of the completed arrest.

### C. Dismissal of the habeas counts does not require the Court to revisit the preliminary injunction.

The Court need not revisit the preliminary injunction to dismiss Counts 1 through 6. The injunction addresses Plaintiffs' supplemental claims for prospective class wide relief against an alleged policy or practice of warrantless civil immigration arrests without individualized "likely to escape" determinations. Respondents-Defendants preserve their objections to that injunction, including their statutory and jurisdictional objections.

The original habeas counts are different. They were filed by M-J-M-A- while she was detained and sought release from that detention, along with declarations about the legality of the completed stop and arrest. M-J-M-A- has since been released without conditions. ICE has represented that it will not place her in removal proceedings based on the October 30 arrest. Dkt. 26 ¶ 5. And any future removal-related proceedings would be governed by the immigration process and petition-for-review scheme Congress enacted.

Petitioner may argue that the preliminary injunction confirms a continuing controversy. But any continuing controversy concerns the supplemental class claims, not the original habeas counts. The supplemental claims may proceed or fail on their own terms. They do not preserve an individual habeas petition after release, and they do not authorize district court habeas review of arrest-related issues Congress channeled elsewhere. Counts 1 through 6 should therefore be dismissed.

## IV. Alternatively, the Court need not reach the merits of the completed arrest, but Respondents preserve their merits defenses.

The Court need not reach the merits of Petitioner's completed stop and arrest to dismiss Counts 1 through 6. The threshold defects discussed above are dispositive: Petitioner has already been released without conditions; the remaining requests for declarations about a completed arrest are not cognizable habeas relief; and Congress, via the INA, has channeled review of removal-related issues to the administrative immigration system and the appropriate federal circuit court of appeals. Those grounds are sufficient to dismiss the original habeas counts.

If the Court finds it necessary reach the merits notwithstanding those threshold defects, Respondents preserve their position that officers had reasonable suspicion to stop the van and probable cause to believe M-J-M-A- was present in the United States in violation of the INA and likely to escape before a warrant could be obtained. Counts 1 through 3 allege that officers lacked reasonable suspicion to stop M-J-M-A- and lacked probable cause to arrest her. Dkt. 1 ¶¶ 50–74. The evidentiary record does not support her allegation that officers had "no basis" to detain or arrest her other than "race and apparent ethnicity." *Id.* ¶¶ 54, 63.

"The reasonable-suspicion standard is not a particularly high threshold to reach." *United States v. Valdes-Vega*, 738 F.3d 1074, 1078 (9th Cir. 2013). "The likelihood of criminal activity need not rise to the level required for probable cause, and it falls considerably short of satisfying a preponderance of the evidence standard." *United States v. Arvizu*, 534 U.S. 266, 274 (2002). A "minimal level of objective justification" based on more than an "inchoate and unparticularized suspicion or hunch" is sufficient. *Illinois v. Wardlow*, 528 U.S. 119, 123–24 (2000) (quotation marks omitted). Courts evaluate reasonable suspicion under the "totality of the circumstances," *Arvizu*, 534 U.S. at 273, and need not "rule out the possibility of innocent conduct," *id.* at 277. *See also Valdes-Vega*, 738 F.3d at 1080 ("A series of innocent acts may be enough for reasonable suspicion justifying an investigatory stop, even though the circumstances amount to far less than probable cause."); *United States v. Steinman*, 159 F.4th 550, 567 (9th Cir. 2025) (describing the reasonable-suspicion threshold as "lenient").

Probable cause is likewise a practical, totality-of-the-circumstances standard. It is "not a high bar," *Kaley v. United States*, 571 U.S. 320, 338 (2014), and requires only a "probability or substantial chance" of unlawful activity, not certainty. *United States v. Guerrero*, 47 F.4th 984, 986 (9th Cir.) (Gould, J., concurring), *amended on* *denial of reh'g*, 50 F.4th 1291 (9th Cir. 2022), *cert. denied*, 143 S. Ct. 838 (2023). Probable cause may rest on reasonable inferences drawn from the facts known to officers. *United States v. Davis*, 530 F.3d 1069, 1084 (9th Cir. 2008).

Here, the officers had reasonable suspicion to stop the van. As Respondents previously explained, the van was registered to a person with an immigration history indicating prior voluntary return and no record of lawful reentry; officers observed the van leaving an address associated with an immigration target; the van made multiple early-morning stops to pick up adults in an agricultural area where officers understood undocumented workers were likely to be present; and the circumstances reasonably suggested that the van's occupants could be engaged in or connected to immigration violations. *See* Dkt. 70 at 23–25. The reasonable-suspicion inquiry does not require each fact, viewed in isolation, to establish unlawful activity. *See Arvizu*, 534 U.S. at 274. Viewed together, the facts provided the minimal objective justification required for an investigatory stop.

That reasonable suspicion developed into probable cause to believe M-J-M-A- was present in violation of the INA. During the encounter, M-J-M-A- refused to identify herself. Officers used Mobile Fortify, which indicated that M-J-M-A- was a potential match for a person with a prior immigration encounter. Subsequent biometric checks confirmed that Petitioner had entered the United States on a visa in January 2025 and had overstayed after that visa expired in March 2025.

Accordingly, officers had at least reasonable suspicion, and later probable cause, as to unlawful presence.[4]

That said, the Court need not resolve those factual and legal disputes in this motion. The merits of the completed arrest do not affect the threshold habeas defects. Even if M-J-M-A- continued to dispute the legality of the stop or arrest, habeas would not provide retrospective declaratory relief after unconditional release, and the ordinary forum for any suppression-related immigration issue would be immigration proceedings followed by petition-for-review review. Counts 1 through 6 should therefore be dismissed without reaching the merits.

## CONCLUSION

Petitioner filed this habeas petition to obtain release from immigration custody. She has received that relief. She is not detained, is not subject to conditions of release or supervision, and has not been placed in removal proceedings based on the challenged arrest. There is no custody left for habeas to remedy. The remaining requests for declarations concerning a completed stop and arrest are not cognizable habeas relief. And to the extent Petitioner seeks review of issues Congress committed to the immigration process, the INA deprives this Court of jurisdiction. The supplemental class claims may proceed or fail on their own terms, but they do not preserve the original habeas counts. The Court should dismiss Counts 1 through 6.

[4] Though reaching the merits of Petitioner's habeas claims is not necessary to resolve her petition, Respondents also incorporate by reference their arguments from their preliminary injunction opposition with respect to whether MJMA was likely to escape before a warrant could be obtained. *See* Dkt. 70 at 15–20.

Respectfully submitted this 12th day of June, 2026.

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## CERTIFICATE OF COMPLIANCE

This brief complies with the applicable word-count limitation under LR 7-2(b), 26-3(b), 54-1(c), or 54-3(e) because it contains 8,805 words, including headings, footnotes, and quotations, but excluding the caption, table of contents, table of cases and authorities, signature block, exhibits, and any certificates of counsel.

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