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

27 Manuel SOTO MUNOZ,

28 Petitioner,

v.

Fereti SEMAIA, et al.

Respondents.

No. 5:25-cv-02898-MRA-BFM

PETITIONER'S REPLY TO
RESPONDENTS' RESPONSE TO
ORDER TO SHOW CAUSE RE:
PRELIMINARY INJUNCTION

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I. INTRODUCTION

Petitioner Manuel Soto Munoz hereby replies to Respondents' November 11, 2025 Response to the Court's Order to Show Cause as to "why a preliminary injunction should not issue." Dkt. #10. While Respondents did indeed provide Petitioner with an 8 U.S.C. § 1226(a) bond hearing, the Respondent EOIR, vis-à-vis an Immigration Judge ("IJ"), ordered a \$7,500 bond with conditions, namely the Alternatives to Detention program at Respondent DHS "Discretion." See Dkt. #11, Exhibit A. As a result, Mr. Soto Munoz, although released from immigrant detention, is waiting to receive a device, such as an ankle monitor, that would allow Respondents to continue to have custodial authority over him. See Exh. A, Second Declaration of Counsel Vivek Mittal ("Second Mittal Decl."); Dkt. #11, Exh. A. Petitioner's conditional release from imprisonment does not render this case moot due to Respondents' ongoing custodial authority over him. *Id.* Furthermore, the Petition for Habeas Corpus is not moot and needs permanent relief for Petitioner to have his liberty interests protected.

II. Respondents' Conditional Release of Mr. Soto Munoz from Imprisonment After Complying with this Court's Temporary Restraining Order Does Not Suffice to Render this Case Moot.

That Respondents complied with this Court's Temporary Restraining Order ("TRO") does not render this habeas case moot. Mr. Soto Munoz's petition for writ of habeas corpus remains live because Respondents continue to exercise custodial authority over him. *Id.* Accordingly, this Court retains authority to issue him habeas relief to enjoin Respondents' unlawful exercise of that authority.

"A case becomes moot 'when the issues presented are no longer 'live' or the parties lack a legally cognizable interest in the outcome' of the litigation." *Pitts v. Terrible Herbst, Inc.*, 653 F.3d 1081, 1086 (9th Cir. 2011). "In other words, if events subsequent to the filing of the case resolve the parties' dispute, [the court]

1 must dismiss the case as moot.” *Id.* at 1087. “The party asserting mootness bears
2 the burden of establishing that there is no effective relief that the court can
3 provide.” *Forest Guardians v. Johanns*, 450 F.3d 455, 461 (9th Cir. 2006). “The
4 burden to establish mootness is ‘heavy;’ a case is not moot where *any* effective
5 relief may be granted.” *Id.* (emphasis in the original).

6 Here, Mr. Soto Munoz remains under Respondents’ custodial authority
7 through the Alternatives to Detention program and therefore remains in need of this
8 Court’s intervention to provide him with relief from Respondents’ unlawful
9 exercise of its custodial authority. Because Respondents continue to exercise legal
10 custody over Mr. Soto Munoz, habeas relief remains available to Mr. Soto Munoz.
11 “A person need not be physically imprisoned to be in custody under the statute;
12 instead, habeas relief is available where the individual is subject to ‘restraints not
13 shared by the public generally.’” *Ortega v. Bonnar*, 415 F. Supp.3d 963, 967–68
14 (N.D. Cal. 2019) (quoting *Jones v. Cunningham*, 371 U.S. 236, 240, (1963));
15 *Perez-Mendez v. Lyons*, No. 2:25-CV-07727-VBF-RAO, 2025 WL 2970373, at *1
16 (C.D. Cal. Oct. 21, 2025) (quoting *Ortega*); *Sun v. Santacruz*, No. 5:25-CV-02198-
17 JLS-JC, 2025 WL 2730235, at *3 (C.D. Cal. Aug. 26, 2025) (same). Proper
18 remedies for habeas petitions include declaratory and injunctive relief. *See Ortega*,
19 415 F. Supp. 3d at 970; *see also N.B. v. Barr*, 2019 WL 4849175, at *7 (S.D. Cal.
20 Oct. 1, 2019) (citing cases). And courts routinely grant such relief in habeas
21 proceedings. *See e.g., Doe v. Barr*, No. 20-cv-02141-LB, 2020 WL 8569426, at *2
22 (N.D. Cal. Dec. 17, 2020) (“The court grants the petition, allows the petitioner’s
23 continued release, and enjoins the respondents from re-detaining the petitioner until
24 circumstances allow his safe return to custody.”); *Ortega*, 415 F. Supp. 3d at 970
25 (enjoining ICE from re-arresting petitioner without a bond hearing).

26 Mr. Soto Munoz was released from confinement pursuant to a bond of \$7,500
27 and additional “Alternatives to Detention at [the Department of Homeland
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1 Security’s] discretion.” See Dkt. #11, Exh. A. Respondent DHS exercised that
2 discretion and upon Mr. Soto Munoz’s release, Mr. Soto Munoz is required to report
3 to DHS to place a tracking monitor on his ankle, or some other tracking device, as
4 well as likely institute regular in-person reporting. See Second Mittal Decl. Thus,
5 even though Mr. Soto Munoz has been released from immigrant detention, these
6 additional conditions shows that he remains in Respondent’s legal custody, and
7 subject to a “restraints not shared by the public generally.” *Ortega*, 415 F. Supp. 3d
8 at 968; *Sun v. Santacruz*, No. 5:25-CV-02198-JLS-JC, 2025 WL 2730235, at *3
9 (C.D. Cal. Aug. 26, 2025) (quoting *Ortega*).

10 Mr. Soto Munoz was released from imprisonment only because this Court
11 issued a TRO and Respondents complied with the terms of the Court’s order by
12 providing Mr. Soto Munoz a bond hearing. See Dkt. Nos. 10, 11. However, mere
13 compliance with the Court’s order does not by itself render this case moot,
14 particularly here where Respondents continue to retain custodial authority through
15 the Court’s requirement that Mr. Soto Munoz be enrolled in the “Alternatives to
16 Detention” program, and future possible deprivation of liberty through confinement
17 in an immigration detention facility – which could happen at any time. See *infra* §
18 III; cf. *Friends of the Earth, Inc. v. Laidlaw Envtl Serv’s (TOC), Inc.*, 528 U.S. 167,
19 190 (2000) (“[A] defendant claiming that its voluntary compliance moots a case
20 bears the formidable burden of showing that it is absolutely clear the allegedly
21 wrongful behavior could not reasonably be expected to recur.”); *id.* at 189 (“such a
22 defendant bears a ‘heavy burden of persua[ding]’ the court that the challenged
23 conduct cannot reasonably be expected to start up again.”); *Fed. Bureau of*
24 *Investigation v. Fikre*, 601 U.S. 234, 241 (2024) (“To show that a case is truly
25 moot, a defendant must prove ‘no reasonable expectation’ remains that it will
26 ‘return to [its] old ways.’ (citation omitted).”).

III. This Petition is Not Moot Because Mr. Soto Munoz Seeks and Needs Permanent Relief on the Merits of His Petition for Writ of Habeas Corpus to Protect His Liberty Interest and Prevent Further Irreparable Harm

This case is not moot because Mr. Soto Munoz needs *permanent* relief from this Court to protect his liberty interest. *See* Dkt. 10 (“Indeed, [Mr. Soto Munoz] suffers potentially irreparable harm every day that he remains in custody without a hearing.”); *Zadvydas v. Davis*, 533 U.S. 678, 690, 121 S. Ct. 2491, 2498, 150 L. Ed. 2d 653 (2001) (“Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [The Fifth Amendment of the Constitution] protects.”); *Terrible Herbst*, 653 F.3d at 1086. Indeed, this Court’s TRO has provided Mr. Soto Munoz with temporary relief but has not conclusively resolved the legal issues at the heart of his petition – only a ruling on the merits can do so. *See, e.g., Lackey v. Stinnie*, 145 S. Ct. 659, 667 (2025) (Preliminary injunctions. . . do not conclusively resolve legal disputes. In awarding preliminary injunctions, courts determine if a plaintiff is likely to succeed on the merits—along with the risk of irreparable harm, the balance of equities, and the public interest.”); *cf.* at 669 (“A plaintiff who wins a transient victory on a preliminary injunction does not become a ‘prevailing party’. . . Rather, a plaintiff ‘prevails’. . . when a court conclusively resolves a claim by granting *enduring judicial relief* on the merits that materially alters the legal relationship between the parties.”) (emphasis added).

Mr. Soto Munoz’s removal proceedings — to which the statutory detention is tied – are still very much alive. He is currently pursuing relief in the form of cancellation of removal before Respondent EOIR, and has instant *pro bono* counsel but does not have an order preventing re-detention in place. Should he be re-detained, Mr. Soto Munoz would need to either petition this Court for relief or be forced to request a bond hearing before EOIR yet again – even though Respondent

1 EOIR just determined a week prior to the filing of this Reply that Mr. Soto Munoz
2 is neither a flight risk nor a danger to the community. *See* Dkt. #11, Exh. A.

3 As a result, permanent relief is paramount in ensuring enduring protection of
4 Mr. Soto Munoz's interest in being free from arbitrary imprisonment. Even though
5 this Court's TRO led to a bond hearing which then led to Mr. Soto Munoz's
6 conditional release from custody, there is nothing currently preventing
7 Respondents' from re-imprisoning Mr. Soto Munoz at any time, without any
8 process, for any length of time. Respondents have not indicated that they would
9 *not* re-detain him, and in fact, Respondents take the position that they have the legal
10 authority to do so in similar litigation. *See e.g. Ortega*, 415 F. Supp. 3d at 969
11 ("Throughout this case the government has refused to provide any assurance that
12 Ortega will not be re-arrested [and] the response to the habeas petition lays out the
13 government's view that the DHS has unreviewable discretionary authority to re-
14 arrest Ortega in the event of material changed circumstances, along with its view
15 that material changed circumstances already exist."); *Perera v. Jennings*, 598 F.
16 Supp. 3d 736, 744 (N.D. Cal. 2022) (describing the government's argument that it
17 could re-detain a petitioner at any time after being released on bond with
18 conditions); *Perez-Mendez v. Lyons*, No. 2:25-CV-07727-VBF-RAO, 2025 WL
19 2970373, at *2 (C.D. Cal. Oct. 21, 2025) ("Without a guarantee that Petitioner will
20 not be re-detained without a bond hearing on the merits, Petitioner is at risk of
21 being detained in violation of his protectable liberty interest to remain out of ICE
22 custody unless he is afforded proper due process")

23 Given Respondents' lack of guarantees in this case and ongoing litigation
24 position in other cases, Mr. Soto Munoz remains at risk of being further confined
25 again by Respondents at any time. As such, Mr. Soto Munoz needs permanent
26 relief from this Court to protect his liberty. Courts reviewing circumstances nearly
27 identical to those here – where an individual in immigration detention filed a
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1 habeas petition challenging their confinement, was granted a bond hearing through
2 a preliminary injunction or temporary restraining order by the habeas court, and
3 was subsequently conditionally released from custody – concluded that a
4 petitioner’s habeas proceedings remained live, and that the petitioner was entitled
5 to *permanent* relief to protect them from impingements on their liberty.

6 For example, the court in *Perera v. Jennings* considered the government’s
7 argument that the petitioner “is not being deprived of any liberty interest now
8 because he ‘is not in ICE custody’ and has already received a bond hearing pursuant
9 to the Court’s temporary restraining order, after which he was released on bond with
10 conditions.” 598 F. Supp. 3d at 744. The court, however, noted that the
11 government’s argument was that it “could re-detain [the petitioner] at any time.” *Id.*
12 at 745. The court explained, “If [petitioner] had no liberty interest in freedom from
13 possible re-detention by ICE such that his existing Petition would need to be
14 denied, [petitioner] would be forced to file a successive petition (or petitions)
15 should ICE re-detain him. That illogical result cannot be[.]” The court went on to
16 grant the petition for writ of habeas corpus and “permanently ENJOINED [the
17 government] from detaining Petitioner–Plaintiff, pursuant to 8 U.S.C. § 1226(c)
18 based on criminal convictions that pre-date this Order, for more than seven days
19 without a bond hearing at which the Government bears the burden of justifying
20 Petitioner–Plaintiff’s detention by clear and convincing evidence.” *Id.* at 748;
21 *compare with Meza v. Bonnar*, 2022 SL 2954333, at *4 (N.D. Cal. Jul. 26, 2022)
22 (finding petition moot where removal proceedings had been terminated).

23 Similarly, in *Pham v. Becerra*, the habeas court “granted a temporary
24 restraining order (TRO) enjoining the Department of Homeland Security and
25 Respondents from continuing to detain [petitioner] without a bond hearing.” 717 F.
26 Supp. 3d 877, 879–80 (N.D. Cal. 2024). Subsequently, “[f]ollowing [petitioner’s]
27 posting of bond and release from custody,” the court granted the habeas petition on
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1 the merits and issued a permanent injunction barring the government from
2 detaining the petitioner without providing further process. *Id.* (“The Court
3 GRANTS Pham's petition for habeas corpus and permanently enjoins Defendants
4 from detaining Pham pursuant to 8 U.S.C. § 1226(c) based on criminal convictions
5 that pre-date the Court’s order, for more than five days without a bond hearing, at
6 which the Government bears the burden of justifying Pham's detention by clear and
7 convincing evidence.”).

8 In this district, in *Perez-Mendez v. Lyons*, the habeas court granted a TRO
9 ordering DHS and EOIR to “provide Petitioner with an individualized bond hearing
10 before an immigration judge pursuant to 8 U.S.C. § 1226 within seven (7) days of
11 the [TRO].” *Perez-Mendez v. Lyons*, No. 2:25-CV-07727-VBF-RAO, at Dkt. #20.
12 After the grant of TRO, Respondents filed a Response to both the TRO Motion and
13 an Amended complaint, arguing for mootness. *Id.* at Dkts. #21, 22. Following the
14 posting of bond and release from immigrant detention, the Court granted
15 Petitioner’s motion for preliminary injunction, holding that Petitioner “is likely to
16 prevail on his claims because he has shown that his freedom from re-detention is a
17 protected liberty interest under the Due Process Clause of the Fifth Amendment.”
18 *Perez-Mendez v. Lyons*, No. 2:25-CV-07727-VBF-RAO, 2025 WL 2970373, at *1.
19 The Court then ordered that Respondents “shall be preliminarily restrained and
20 enjoined from...re-detaining Petitioner without a bond hearing on the merits where
21 the government must prove by clear and convincing evidence that Petitioner is a
22 danger to the community and a flight risk such that physical custody is required.”
23 *Id.* at *2.

24 In *Sun v. Santacruz*, de Court’s issued a preliminary injunction, despite
25 previously issuing a TRO, due to the Respondents in that case making “no further
26 opposition.” *See Sun v. Santacruz*, No. 5:25-cv-02198-JLC-JC, Dkt # 19 (C.D. Cal.
27 Oct. 16, 2025). In the Order, the Court stated that Respondents “shall not arrest or
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1 detain Petitioner without written notice provided to Petitioner and her counsel, and
2 a pre-deprivation hearing before a neutral arbiter to evaluate whether Petitioner's
3 re-detention is warranted based on flight risk or a danger to the community." *Id.*

4 Here, Respondents simply reference their legal positions in their brief in
5 opposition to Mr. Soto Munoz's *ex parte* application for a TRO, rather than discuss
6 any meaningful reason as to why *preliminary* relief should not be granted. Just as
7 in *Perera*, *Pham*, *Perez-Mendez*, and *Sun*, despite this Court's TRO, Mr. Soto
8 Munoz's liberty remains at risk and seeks, and needs, an enduring order which
9 preliminarily enjoins Respondents from detaining him again without a pre-
10 deprivation hearing.

11 **IV. CONCLUSION**

12 For the foregoing reasons, Mr. Soto Munoz submits that his Petition for Writ
13 of Habeas Corpus is not moot, and the preliminary injunction should be issued as a
14 first step towards permanent and enduring relief for Mr. Soto Munoz, which should
15 include an Order to not redetain Mr. Soto Munoz absent a pre-deprivation hearing.

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17 Dated: November 17, 2025

Respectfully Submitted,

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19 /s/Vivek Mittal

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WORD COUNT CERTIFICATION

The undersigned, counsel of record for Petitioner, certifies that this Memo contains 2,461 words, which complies with the Word Limit of L.R. 11-6.1.

/s/Vivek Mittal

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