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9 **United States District Court**
10 **Central District of California**

11 Hien Quien Vo

12 Petitioner,

13 v.

14 Kristi Noem, et al.

15 Respondents.
16
17

No. 5:25-cv-02880-KK-SSC

PETITIONER'S TRAVERSE

18 Per the Court's November 17, 2025 Order, Petitioner hereby files
19 his traverse.

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I. Argument

A. Respondent's arguments have already been rejected

This Court previously ordered Respondent to file an answer to the petition on or before December 29, 2025. Dkt. 11 at 1. Respondent failed to do so. Instead, Petitioner was re-detained on January 5, 2026, and then Respondent filed her answer on January 6, 2026. Dkt. 17. Respondent did not request an extension of time to file the answer, nor leave of Court to file a late answer.

Although styled as Respondent's opposition to Vo's petition for writ of habeas corpus, Respondent appears to have simply re-filed her opposition to Petitioner's motion for temporary restraining order. Compare Dkt. 9 and Dkt 17. Indeed the so-called opposition to Vo's petition argues that a TRO should not be granted in this matter and applies the *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 22 (2008) factors, which are the factors that guide issuance of TRO and Preliminary Injunction. Of course, the District Court in this matter has already granted Petitioner a TRO, dkt. 10, and therefore Respondent's arguments have already been considered and denied, and are therefore precluded.

B. This case is not moot

The only new issue Respondent raises in her answer is the question of mootness. Respondent claims that because Petitioner was released pursuant to TRO (dkt. 10), Petitioner's case is now moot. Petitioner was, however, re-detained on January 5, 2026 and is presently in custody at the Joe Corley Processing Center in Texas. Any question as to mootness should be denied due to Petitioner's re-detention. Respondent does not address Petitioner's re-detention in her answer.

1 Regardless, Petitioner's release did not render his habeas petition
2 moot. If the case were dismissed as moot, this Court's temporary
3 restraining order would no longer be in force, leaving nothing to restrain
4 the Government from once again unconstitutionally detaining Petitioner -
5 - *as they did*.

6 In *Nielsen v. Preap*, the Supreme Court found the case was not moot
7 where the plaintiffs challenging their immigration detention were
8 released pursuant to a preliminary injunction because "[u]nless that
9 preliminary injunction was made permanent and was not disturbed on
10 appeal, these individuals faced the threat of re-arrest and mandatory
11 detention." 586 U.S. 392, 403 (2019). The same is true here. Similarly,
12 the Ninth Circuit has made clear that a petitioner's release from custody,
13 or even deportation, does not automatically render a case moot. *Abdala*
14 *v. I.N.S.*, 488 F.3d 1061, 1064 (9th Cir. 2007). Because Petitioner could
15 be (and has been) re-detained, he still has "a legally cognizable interest"
16 in the outcome of his petition. *Porter v. Jones*, 319 F.3d 483, 489 (9th Cir.
17 2003).

18 Indeed, the government's mootness argument is foreclosed by
19 *Rodriguez v. Hayes*, 591 F.3d 1105, 1117-18 (9th Cir. 2010) (abrogated on
20 other grounds by *Rodriguez Diaz v. Garland*, 53 F.4th 1189 (9th Cir.
21 2022)). In *Rodriguez*, Petitioner Rodriguez and a class of aliens detained
22 during immigration proceedings for more than six months without bond
23 hearings sought injunctive and declaratory relief providing bond
24 hearings. The district court denied relief in a conclusory order, and the
25 government attempted to defend the order on appeal. One of the
26 government's arguments was that class certification was appropriately

1 denied because Rodriguez's individual claim had been mooted by his
2 release from detention. *Id.* at 1117. The Ninth Circuit explained that
3 mootness is not a basis to deny class certification, but could be a basis for
4 dismissing Rodriguez's petition. But, the Ninth Circuit explained, had
5 that been the district court's basis for denying relief, it would have been
6 error. *Id.*

7 The *Rodriguez* Court then explained two rationales for why release
8 did not moot the petition. First, Rodriguez's release placed him in a
9 different position than he would have been in had he been granted relief.
10 Specifically, when released, Rodriguez could have been taken back into
11 custody for any reason. But, if granted relief, he could only be taken into
12 custody if he violated his conditions of release or his detention became
13 necessary to effectuate his removal. *Id.* (quoting *Clark v. Martinez*, 543
14 U.S. 371 (2005)). So to here, the temporary restraining order kept
15 Petitioner out of custody temporarily. When his TRO expired, the
16 government could, and did, take him back into custody. If, however, the
17 petition is granted, then Petitioner will be released and the government
18 is limited by its rules and regulations as in *Clark*. Granting relief thus
19 places Petitioner in a position far different than his current one. Like the
20 petitioners in *Rodriguez* and *Clark*, "Petitioner here retains a personal
21 stake in the determination of his claim such that it is not moot." *Id.* at
22 1117-1118.

23 Second, and more simply, when Petitioner was released pursuant to
24 the TRO, ICE imposed a series of new conditions upon him including
25 wearing an ankle monitor. "The strict limitations on Petitioner's
26 freedom, therefore, provide an additional reason why his case presents a

1 live controversy.” *Rodriguez*, 591 F.3d at 1118 (citing *Carafas v.*
2 *LaVallee*, 391 U.S. 234, 238 (1968)). Thus even if Petitioner had not been
3 re-detained, the case still would not be moot.

4 Even if the issuance of a TRO could be enough to moot the case,
5 that would not be the end of the analysis. Instead, courts then consider
6 whether the claims in the petition meet one of the exceptions to the
7 mootness doctrine. One exception to the mootness doctrine exists where
8 an action is “capable of repetition, yet evading review.”¹ *So. Pac.*
9 *Terminal Co. v. Interstate Commerce Comm’n*, 219 U.S. 498, 515 (1911).
10 In *United States v. Bandau*, for example, the Ninth Circuit remanded a
11 case to determine whether this exception applied to the litigants’
12 challenge to a shackling policy—even though the policy had been
13 officially rescinded. 578 F.3d 1064, 1068 (9th Cir. 2009). Remand was
14 necessary, because “anecdotal information strongly suggest[ed]” that the
15 policy was, in fact, ongoing. *Id.*

16 Here, should the Court dismiss the petition on mootness grounds,
17 the parties would simply begin a cycle where Petitioner would continually
18 seek relief from the Courts and Respondent would continually re-detain
19 Petitioner in an unconstitutional manner: released pursuant to a new
20 temporary restraining order, then re-detained once the temporary
21 restraining order again rendered his claims moot. Respondents opposed
22 the issuance of a temporary restraining order, arguing that Petitioner’s
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24 ¹ Another exception, the voluntary cessation exception, is inapposite
25 here. The Government did not voluntarily release Petitioner—it did so only
26 after this Court ordered it to. Even if Petitioner had been voluntarily
released, Respondent would still bear “[t]he heavy burden of persuading the
court that the challenged conduct cannot reasonably be expected to start up
again.” *Friends of the Earth, Inc. v. Laidlaw Environmental Services (TOC),*
Inc., 528 U.S. 167, 189 (2000).

1 detention was constitutional (Dkt. 9), and have not indicated that
2 position has changed, provided assurances about future detention, or
3 even acknowledged that Petitioner has been re-detained and done
4 nothing to remedy the situation. *See Picrin-Peron v. Rison*, 930 F.2d 773,
5 776 (9th Cir. 1991) (finding petition to be moot where petitioner had been
6 released from custody and where the director of an immigration office
7 signed a declaration under oath assuring that the petitioner would
8 remain released from custody and on parole absent a change in
9 circumstances). There is also no indication that ICE has changed its
10 policies or practices to comply with constitutional requirements as
11 interpreted by this Court and many others in this district. *See, e.g., Luu*
12 *v. Bowen*, No. 5:25-cv-03145, 2025 WL 3552298 (C.D. Cal. Dec. 11, 2025);
13 *Esmail v. Noem*, No. 2:25-cv-08325-WLH-RAO, 2025 WL 3030590 (C.D.
14 Cal., Sept. 12, 2025). If Petitioner's claims are dismissed as moot, then
15 he will simply remain in custody and the parties will have to begin this
16 litigation anew, evading the review of this Court.

17 A temporary restraining order is by nature a temporary remedy,
18 intended "to preserve the relative positions of the parties until a trial on
19 the merits can be held." *Univ. of Texas v. Camenisch*, 451 U.S. 390, 395
20 (1981). That fact is obvious in this matter due to Petitioner's re-detention
21 once the TRO expired.

22 Finally, should the Court dismiss this action as moot, the Court
23 would lose jurisdiction because Petitioner is currently detained in Texas.
24 Releasing and re-detaining petitioners when TROs expire is troubling
25 tactic. Allowing the government to use this tactic to forum shop is even
26

1 more troubling, and something that should not be encouraged by
2 dismissing this action.

3 **C. Petitioner's claims for relief**

4 Vo filed his initial petition pro se. "Pro se complaints and motions
5 from prisoners are to be liberally construed." United States v. Seesing, 234
6 F.3d 456, 462-63 (9th Cir. 2000), as amended (Jan. 29, 2001) (citing
7 Resnick v. Hayes, 213 F.3d 443, 447 (9th Cir.2000) ("[C]ourts must
8 construe pro se pleadings liberally"); Frost v. Symington, 197 F.3d 348,
9 352 (9th Cir.1999)).

10 Vo advanced multiple claims for relief. Claims 1 and 2 allege that
11 Vo's detention violates the INA regulations as well as the Due Process
12 clause because ICE cannot effectuate VO's "prompt removal from the
13 United States" and because VO is "neither a flight risk nor danger," and
14 because Vo did not violate his conditions of release. Dkt. 1 at 4-5.
15 Additionally violate requested an order barring his deportation to the
16 third country.

17 Vo initially raises his indefinite detention under Zadvydas v. Davis,
18 533 U.S. 678 (2001) and unlawful revocation of Vo's Order of Supervision
19 under the INA regulations. Specifically, Vo contends that there is no
20 significant likelihood of his removal to Vietnam in the reasonably
21 foreseeable future. Vo was detained by ICE on September 4, 2025. He
22 was released pursuant to the District Court's order on November 12,
23 2025. He was subsequently re-detained on January 5, 2026 and remains
24 in ICE custody. By Respondent's own admission, Respondent requested
25 travel documents on September 26, 2025 and the estimated time for
26 production of travel documents is 30-60 days. Dkt. 17-1. Respondent has

1 provided no indication that they have received travel documents for
2 petitioner even though it has now been 112 days since they requested
3 travel documents for petitioner. Accordingly the Court should grant
4 Petitioner's indefinite detention claim pursuant to *Zadvydas* and order
5 that Petitioner be released and not re-detained unless and until the
6 government procures travel documents for Petitioner.

7 With respect to Petitioner's unlawful re-detention claim, ICE took
8 Petitioner into custody on September 4, 2025, and served him with a
9 vague notice indicating that, for unexplained reasons, ICE then believed
10 there was a significant likelihood that Vo could be removed. Dkt. 17.
11 Respondents do not contend that Vo violated his conditions of release.
12 This notice is insufficient in that it fails to notify Vo of any changed
13 circumstances justifying his detention. As numerous courts have held "in
14 this district, circuit, and across the country," "such a vague, generic
15 statement is insufficient notice." *See Quan v. Bowen*, No. 5:25-cv-02546-
16 HDV-PVC, Dkt. 14 at 10 (C.D. Cal. Nov. 14, 2025) (collecting cases).
17 Moreover, ICE failed to afford Vo an interview as required to respond to
18 the alleged reasons for his detention.

19 Finally, Vo challenged his possible deportation to a third country.
20 Respondents appear to claim that they will not attempt to deport him to a
21 third country and will only deport him to Vietnam. Petitioner
22 respectfully requests an order from this Court barring his deportation to
23 a third country unless and until Petitioner receives notice and an
24 opportunity to make appropriate claims for relief.
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26

II. Conclusion

For the foregoing reasons, and those detailed in the pending petition for writ of habeas corpus, Petitioner respectfully requests that the Court grant his habeas petition and order him immediately released.

Respectfully submitted,
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Federal Public Defender

Dated: January 16, 2026

By: /s/
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