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UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

GARO VARTANYAN
Petitioner,

v.

KRISTI NOEM, *et al.*,

Respondents.

No. 5:25-cv-03205-JFW-BFM

FEDERAL RESPONDENTS' ANSWER TO PETITON FOR WRIT OF HABEAS CORPUS

[Filed concurrently with Exh. 1, DHS Release Documents]

Honorable Brianna Fuller Mircheff
United States Magistrate Judge

FEDERAL RESPONDENTS' ANSWER TO PETITION FOR WRIT OF HABEAS CORPUS; SUGGESTION OF MOOTNESS

On November 26, 2025, Petitioner, through counsel, filed a Petition for Writ of Habeas Copus ("Petition") [Dkt. No. 1]. On December 14, 2025, Petitioner filed an *ex parte* application seeking a Temporary Restraining Order ("TRO Application") [Dkt. No. 5]. Petitioner specifically sought a declaration that his re-detention is unlawful and an order enjoining Respondents from continuing his detention, including immediate release absent further process. Petition at 32-33. Additionally, Petitioner sought restrictions on any third country removal, attorney's fees, and any other relief the Court deems appropriate. *Id.* Respondents did not file an opposition to the TRO Application.

On December 19, 2025, the Court granted the TRO Application and ordered: (1) Petitioner's immediate release and barred his re-detention unless and until he receives adequate notice and a hearing to determine the legality of his re-detention; and (2) if Petitioner is to be removed to a third country, Petitioner must be informed of ICE's intention to do so and he must receive an individualized opportunity to challenge removal through a reasonable fear interview. Dkt. No. 12.

On January 8, 2026, the Court ordered Respondents to file an Answer to the Petition no later January 14, 2026. Dkt. No. 13. In the alternative, the Court advised the parties to confer on whether a notice or stipulation of voluntary dismissal is appropriate if they agree the Petition is moot. *Id.* After consultation with Petitioner's Counsel, Petitioner was willing to stipulate to a dismissal under the following conditions: (1) that ICE will continue to abide by the order regarding re-detention and the third country removal, and (2) he receives a settlement of $5000. Respondents are not amenable to a dismissal conditioned on monetary payment or limitations on DHS's statutory authority. Respondents thus hereby file our Answer to the Petition, reflecting the suggestion of mootness.

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Respondents have fully complied with the Court's TRO order. Dkt. No. 12. On December 19, 2025, DHS released Petitioner from custody. *See* Exh. 1 (DHS Release Documents). Because Petitioner has been released from DHS custody – there is no longer a live case or controversy. Accordingly, any request for a preliminary injunction or habeas relief is moot. *See* TRO Application at 6; *see also* Exh. 1; *cf. Pinson v. Carvajal*, 69 F.4th 1059, 1077 (9th Cir. 2023) ("Because [petitioner's] claims lie outside the historic core of habeas corpus, we conclude the district court properly found it lacked jurisdiction to hear [his] petition."), *cert. denied sub nom. Sands v. Bradley*, 144 S. Ct. 1382 (2024); *id.* at 1070 (explaining that "release from confinement is the only available remedy for claims at the writ's core"); *see also* 28 U.S.C. § 2241(c) ("The writ of habeas corpus shall not extend to a prisoner unless [h]e is in custody.").

Because the Respondents released and have not re-detained Petitioner, the alleged injury—the detention itself—has ended, and there is no further relief for this Court to provide. As the Supreme Court has explained, once a challenged restraint has ceased to have any continuing effect, "mootness . . . simply deprives us of our power to act; there is nothing for us to remedy, even if we were disposed to do so." *Spencer v. Kemna*, 523 U.S. 1, 18 (1998). "[T]he Ninth Circuit [too] has long held that [] 'the writ of habeas corpus is limited to attacks upon the legality or duration of confinement.'" *Pinson*, 69 F.4th at 1065 (citing *Crawford v. Bell*, 599 F.2d 890, 891 (9th Cir. 1979)); *see also Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973) ("It is clear . . . from the common-law history of the writ . . . that the essence of habeas corpus is an attack by a person in custody upon the legality of that custody, and that the traditional function of the writ is to secure release from illegal custody."); *Skinner v. Switzer*, 562 U.S. 521, 525 (2011) ("Habeas is the exclusive remedy . . . for the prisoner who seeks immediate or speedier release from confinement. Where the prisoner's claim would not necessarily spell speedier release, . . . suit may be brought under § 1983." (cleaned up)).

Nor can Petitioner salvage either his habeas claims or his request for injunctive relief by speculating that he might be re-detained unlawfully at some indefinite point in

the future. Article III requires a concrete, actual or imminent injury; mere speculation about possible future injury is insufficient. *See, e.g.*, *City of Los Angeles v. Lyons*, 461 U.S. 95, 102 (1983) (making plain that plaintiff must show an injury or threat of injury that is "real and immediate," not "conjectural" or "hypothetical"); *Whitmore v. Arkansas*, 495 U.S. 149, 158 (1990) ("Each of these cases demonstrates what we have said many times before and reiterate today: Allegations of possible future injury do not satisfy the requirements of Art. III. A threatened injury must be 'certainly impending' to constitute injury in fact."). Relatedly, the mere "possibility" of irreparable harm is insufficient to sustain his burden here. *See Winter v. Natural Resources Defense Council, Inc.*, 555 U.S. 7, 22 (2008). Instead, he must show "immediate threatened injury." *Caribbean Marine Servs. Co., Inc. v. Baldrige*, 844 F.2d 668, 674 (9th Cir. 1988) (citing *L.A. Mem'l Coliseum Comm'n v. Nat'l Football League*, 634 F.2d 1197, 1201 (9th Cir. 1980)). He cannot do so.

After all, "[i]ssuing a preliminary injunction based only on a possibility of irreparable harm is inconsistent with [the Supreme Court's] characterization of injunctive relief as an extraordinary remedy that may only be awarded upon a clear showing that the plaintiff is entitled to such relief." *Winter*, 555 U.S. at 22. "Absent a sufficient likelihood that [he] will again be wronged *in a similar way*," *Lyons*, 461 U.S. at 111 (emphasis added), Petitioner cannot establish standing to seek an injunction much less irreparable harm. *See, e.g.*, *Hai Chieu Dam v. Timothy Robbins*, 2:25-cv-08133-JWH-MAA, Docket No. 7 at 6 (C.D. Cal. Sept. 16, 2025) (declining to address whether petitioner was "in custody" because petition for an injunction barring re-detainment was not ripe). Recently, where a petitioner argued that "his future detention is not speculative because the call-in for a physical appointment is a typical ruse to re-detain noncitizens on supervised release, and that he still faces a risk of unlawful future detention," the court found that he "fail[ed] to sufficiently allege an injury or threat of injury because the event giving rise to the Petition has passed and Petitioner's alleged threat of future injury is too speculative and unripe" and relatedly that he "fail[ed] to present sufficient

allegations or evidence of the threat of future injury to confer Article III standing." *J.P. v. Santacruz*, No. 8:25-CV-01640-FWS-JC, 2025 WL 2998305, at *4 (C.D. Cal. Oct. 24, 2025). Because Petitioner is not in custody, cannot show any continuing collateral consequence that this Court could redress via habeas, and relies only on speculative future harm, his habeas petition does not present an Article III case-or-controversy that this Court can redress. Without a live claim, he cannot show likelihood of success on the merits or irreparable harm.

Courts in this District routinely deny requests for preliminary injunctive relief as moot where the petitioner has already been released from DHS custody. *See, e.g.*, *Yessenia Alvarez Cabanillas v. Geo Group, Inc. et al*, 5:25-cv-03484-ODW-PC, Dkt. No. 11 (January 5, 2026, minute order by Honorable Otis D. Wright, II denying as moot petitioner's request for a preliminary injunction given petitioner sought emergency injunctive relief to be released from custody and was granted the requested relief by DHS releasing her from custody); *Mauricio Alejandro Ovalle Lombana v. Mark Bowen et al*, 2:25-cv-10871-HDV-JC, Dkt. No. 14 (January 5, 2026, minute order by Honorable Hernan D. Vera denying petitioner's habeas petition as moot given petitioner was afforded a bond hearing and has been released from DHS custody on bond conditions); *see also See Iron Arrow Honor Society v. Heckler*, 464 U.S. 67, 70 (1983); *United States v. Geophysical Corp. of Alaska*, 732 F.2d 693, 698 (9th Cir. 1984) ("We cannot take jurisdiction over a claim as to which no effective relief can be granted.").

Accordingly, the Court should decline to issue a preliminary injunction and dismiss the Petition as moot.

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Dated: January 14, 2026

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE WITH L.R. 11-6.2

The undersigned, counsel of record for Respondent, certifies that the memorandum of points and authorities contains 1,594 words, which complies with the word limit of L.R. 11-6.1.

Dated: January 14, 2026

Respectfully submitted,

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