UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Civil No. 26-cv-01429 (JRT/JFD)

Riky A. M. L.,

Petitioner,

v.

Markwayne Mullin, Secretary of Homeland Security, *et al.*,

Respondents.

FEDERAL RESPONDENTS' RESPONSE TO MOTION TO ENFORCE

Federal Respondents file this opposition to the Motion to Enforce and, per the Stipulation Amending Briefing Schedule (ECF 62) do not respond at this time to Petitioner's Motion for Contempt and Sanctions and reserve all arguments to do so should the Court issues an Order to Show Cause. Federal Respondents oppose the Petitioner's Motion to Enforce as it is moot, and the Court therefore lacks jurisdiction in this case to consider habeas relief for a *new* detention.

BACKGROUND

Prior Habeas Proceedings

On February 13, 2026, after being detained by Department of Homeland Security (DHS) Immigration Customs Enforcement (ICE) Enforcement and Removal Operations (ERO), Petitioner filed a Petition for Writ of Habeas Corpus. (ECF 1). The Court issued an Order to Show Cause to respond to the writ of habeas corpus, which in part asked

Respondents to provide arguments on whether Petitioner's case differed as matter of fact or law from *Avila v. Bondi*, 25-cv-3741 (JRT/SGE) (D. Minn. Oct. 21, 2025). (ECF 3).

On February 15, 2026, Respondents filed a response noting that the Petition raised "legal and factual issues similar to those in prior habeas petitions" including *Avila*, which was then pending at the Eighth Circuit. (ECF 5). On February 17, the Court granted the Petition *solely* based on its prior decision in *Avila*, then still-pending at the Eighth Circuit,[1] and granted release based on the lack of a warrant. (ECF 7).

It is undisputed that Petitioner was then released from custody. (ECF 8, 9). A dispute then arose regrading return of property that Petitieonr alleged Respondents to taken when arrested and the lost, which was eventually resolved via court-supervised settlement. (ECF 42). The Court then entered judgment on Petitioner's habeas petition on June 9, 2026. *Id.*

Petitioner's Criminal Proceedings and Detention

On June 5, 2025, Petitioner was charged with Gross Misdemeanor Carry BB Gun/Rifle/Shotgun/Assault Weapon in a public place, and two misdemeanor driver's license and traffic violations in Dakota County District Court.[2] On July 30, the Dakota County District Court issued a warrant for Petitioner's arrest for failure to appear at his omnibus hearing.[3]

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[1] The Eighth Circuit expressly rejected the statutory interpretation that formed the same sole basis of relief as here on March 25. *See Avila v. Bondi*, 170 F.4th 1128 (8th Cir. 2026).
[2] *See* 19HA-CR-25-1095, index 1 (Complaint). The Petition utterly fails to mention these legal proceedings. *See* (ECF 1), ¶¶ 40 & 63.
[3] *See id.*, index 10 (bench warrant, issued for failure to appear at the July 30, 2025 hearing).

On August 11, 2026, Petitioner was arrested by Dakota County Sheriff due to the outstanding criminal warrant and detained at the Dakota County Jail. Declaration of Deportation Officer Benjamin Northwood (Northwood Decl.), ¶ 6. On August 12, Petitioner was convicted on each count and sentenced to time served and probation.[4]

Petitioner's Immigration Proceedings and New Immigration Detention

On February 15, 2026, DHS initiated removal proceedings against Petitioner by filing and serving him with a Notice to Appear (NTA), charging him as subject to removal under Immigration and Nationality Act[5] (INA) § 212(a)(6)(A)(i) as an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General. *Id.*, ¶ 5, Ex. A. Petitioner's removal proceedings remain pending and Petitioner has not filed any applications for relief from removal with the Immigration Judge.

That same day, ICE/ERO encountered Petitioner at the Dakota County Jail during routine Criminal Alien Program operations. *Id.*, ¶ 7. ICE/ERO officers, via biometrics and DHS database checks, confirmed Petitioners identity and that he was in removal proceedings. *Id.* Then, after reviewing the case with the Assistant Field Office Director and Office of the Principal Legal Advisor, *id.*, Ex. B (I-213), an ICE/ERO acting supervisory deportation and detention officer issued a Warrant for Arrest, Form I-200, and a deportation officer issued an Immigration Detainer – Notice of Action, Form I-247A, to Dakota County Jail, informing that DHS had determined that probable cause existed that Petitioner was

[4] *See* 19HA-CR-25-1095, indexes 13-14.
[5] 8 U.S.C. §§ 1151, *et al.*

removable based on the pendency of ongoing removal proceedings and requested that the Jail notify DHS as early as practicable prior to releasing Petitioner. *Id.*; Exs. C, D.

On August 12, 2026, upon his release from custody at Dakota County Jail, ICE/ERO encountered Petitioner, identified themselves as immigration officers, served him with the executed Form I-200, and took him into detention. *Id.*, ¶ 8; Ex. D. Petitioner remains detained in Minnesota pending his immigration proceedings. *Id.*, ¶ 9.

On August 17, 2026, Petitioner filed a Motion to Enforce. (ECF 61). Petitioner has not filed a new habeas petition for his new immigration detention.

ARGUMENT

I. THIS COURT LACKS SUBJECT-MATTER JURISDICTION UNDER THE MOOTNESS DOCTRINE.

At the time Petitioner filed his habeas petition, he was detained by ICE. And under the facts, circumstances, and law giving rise to that detention, is undisputed that Petitioner was released from detention. Consequently, conceding that Petitioner initially had Article III standing to sue, the subsequent release from detention eliminated any live controversy *regarding his original detention*. Because there is no ongoing injury or imminent threat of recurrence, any claim for retrospective relief is moot. *City of Los Angeles v. Lyons*, 461 U.S. 95, 102 (1983).[6]

[6] Although *Lyons* is commonly cited as a standing case, its reasoning is equally relevant to mootness because both doctrines ask whether there is a live controversy supporting relief. Many courts cite *Lyons* in mootness analyses to explain why a plaintiff whose past injury has ended cannot continue pursuing an injunction absent a likelihood of recurrence. *See, e.g., Brazil v. Arkansas Dept. of Human Servs.*, 892 F.3d 957, 959 (8th Cir. 2018) ("'[W]hen the issues presented are no longer live or the parties lack a cognizable interest

Article III of the Constitution grants the Judicial Branch authority to adjudicate "Cases" or "Controversies." U.S. Const. Art. III, § 2. An "actual controversy must be extant" not only "at the time the complaint is filed," but also through "all stages" of the litigation. *Alvarez v. Smith,* 558 U.S. 87, 92 (2009). The dispute between the parties must at all times remain "definite and concrete, touching the legal relations of parties having adverse legal interests." *North Carolina v. Rice*, 404 U.S. 244, 246 (1971). "Throughout the litigation, the party seeking relief must have suffered, or be threatened with, an actual injury traceable to the defendant and likely to be redressed by a favorable judicial decision." *Spencer v. Kemna*, 523 U.S. 1, 7 (1998). When a party contends that factual or legal developments since the filing of suit have eliminated the case or controversy, the doctrine of mootness applies. *Id.* at 7; *Lewis v. Continental Bank Corp.*, 494 U.S. 472, 477 (1990) (injury is "likely to be redressed by a favorable judicial decision."). Petitioner was released from custody complained of in his habeas petition, and barring application of the two exceptions to the mootness doctrine, discussed below, the relief he now seeks is moot. *See Kargbo v. Brott*, No. 15–CV–2713 (PJS/LIB), 2016 WL 367162 (D. Minn. July 6, 2016) (concluding that Petitioner's release from custody rendered petition moot).

Plaintiff cannot save his claims by invoking either the "voluntary cessation" or "capable of repetition" exceptions to the mootness doctrine. Federal Respondents did not temporarily release Petitioner during the pending habeas to escape relief, rather his detention ended when ICE released him from custody *pursuant to the Court's Order*

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in the outcome,'" a case or controversy under Article III no longer exists because the litigation has become moot.") (citing *Already, LLC v. Nike, Inc.*, 568 U.S. 85, 91 (2013).

granting relief. And while Petitioner has now been taken into custody, such custody is based on a new, valid statutory theory and with new factual circumstances (here, Petitioner's encounter with ICE while in local criminal custody and ensuing issuance of a warrant). *See United States v. W.T. Grant Co.*, 345 U.S. 629 (1953) (voluntary cessation doctrine inapplicable where there was "no reasonable expectation that the wrong will be repeated."); *Hillesheim v. Holiday Stationstores, Inc.*, 903 F.3d 786, 791 (8th Cir. 2018). The "wrong" previously decided by this Court was detaining Petitioner pursuant to what the Court concluded was an incorrect analysis of INA § 1225(b)(2), an analysis which the Eighth Circuit has now validated in *Avila*. Petitioner's new arrest does not match the "wrong" which led to relief in this case and has therefore not been repeated. *See Kargbo*, 2016 WL 3676162, *2 ("To the contrary, by releasing Kargbo under 8 C.F.R. § 241.13, the government has placed itself under new legal limitations—limitations that did not exist at the time that Kargbo filed his habeas petitions and that make it impossible for the government to resume the objectionable conduct. Again, while it is certainly possible for the government to again detain Kargbo illegally, that detention would be illegal for different factual and legal reasons than the detentions challenged by Kargbo in his habeas petitions. It is now impossible for the government to repeat the *same* unlawful conduct that Kargbo challenged, and thus this case does not fall into the voluntary-cessation exception to the mootness doctrine.

Nor has Petitioner established that any purported injury is capable of repetition. It is undisputed that Petitioner was released from custody under the Court's order granting such relief. And, Petitioner's recent arrest occurred under new legal basis, in the since that

Avila now governs the statutory issue, and new factual circumstances. While Petitioner is detained as before, the underlying legal and factual basis for such detention complete differ from the prior detention and relief granted, and is therefore not a "repeat" of his prior arrest. *Lyons*, 461 U.S. at 102 (citing *O'Shea v. Littleton*, 414 U.S. 488, 493 (1974) (no case or controversy where future injury is not sufficiently real and immediate); *Murphy v. Hunt*, 455 U.S. 478, 482 (1982) (mere physical or theoretical possibility is insufficient to overcome the jurisdictional hurdle of mootness); *see also Kargbo*, 2016 WL 3676162, *2 ("If the government takes Kargbo into custody in the future, the government will be acting on the basis of facts and legal authority that are different from the facts and legal authority on which the government relied in imposing the detentions challenged in Kargbo's habeas petitions. The government cannot take Kargbo into custody in the future unless he violates a release condition or unless circumstances change and, based on those changed circumstances, Kargbo's removal becomes significantly likely in the reasonably foreseeable future. In other words, the new detention will not be a "repeat" of either of the detentions that Kargbo challenged in his habeas petitions; it will be a different type of detention that will be based on a different justification.").

The mootness doctrine is especially prescient here where Petitioner's motion, if allowed to proceed, would circumvent the rigorous requirements of challenging detention via habeas petition. *See* 28 U.S.C. § 2242 (statutory requirements in filing for habeas relief). Illustrated here, where the basis and arguments of the motion appear to be based

solely on *good-faith discussions* during multiple meet-and-confer.[7] And while Petitioner may have alternative arguments to challenge the *present* detention, as Petitioner's Counsel identifies, such arguments should be made in a *new* petition for habeas corpus, providing verified facts, and arguments as to why detention is currently unlawful, the Court would then issue an order to show cause, or not, allowing Respondents to provide a response. Ordering release here, after Respondents complied with the Court's order for relief, would amount to error. *See Hassan v. McAleenan*, 18–CV–2713 (ECT/KMM) (D. Minn. Jan. 7, 2020) (denying habeas as moot where petitioner released via removal in part because if petitioner "were taken into custody again, any habeas relief he might seek at that time would be based on new facts and circumstances surrounding a new detention.").

II. ALTERNATIVELY, NO VIOLATION OF THE COURT'S ORDER OCCURRED BECAUSE MATERIALLY CHANGED CIRCUMSTANCES EXIST.

A motion to enforce seeks to force a party to comply with a court order where the disobedient party "fails to comply within the time specified." Fed. R. Civ. P. 70. Necessary for amotion is an entry of judgment, which exists here. *Id.*; (ECF 42).

First, it is undisputed that Petitioner was released from custody pursuant to this Court's order granting such relief – which Petitioner now seeks to enforce. The aggrieved harm which the Court remedied by ordering release – ongoing unlawful detention under what was then-determined-to-be a flawed reading of INA § 1225(b)(2) – no longer exists. And while the Court ordered that no redetention could occur "absent materially changed

[7] At no time did Petitioner's Counsel explain the legal basis for his motion, nor that he would be using good-faith discussions via phone and email *as evidence* for the motion.

circumstances," which Respondents object to as an overly broad remedy in a habeas proceeding, both legal and factual material changed circumstances exist: the Eighth Circuit's ruling in *Avila*, and that Petitioner's present arrest was done under a warrant issued after the initiation of removal proceedings. The sole basis for Court concluding that Petitioner's arrest was unlawful has now been invalidated; and the sole basis for ordering release, and not a bond hearing – the absence of warrant, is not present in the current arrest. Respondents therefore did not violate the Court's order by redetaining Petitioner.[8]

Petitioner appears to concede material change in circumstances by arguing that his present detention is now pursuant to INA § 1226(a) due to the presence of a warrant. *See* Memo iso Motion (ECF 61), pgs. 5-6. Petitioner's Counsel argues that a material change in circumstance requires that something "happened unique to Petitioner" and that "[n]othing transpired with respect to Petitioner"; but the factual record casts cold water on such aversion – removal proceedings have since been initiated *personally and uniquely* against Petitioner; Petitioner was *personally and uniquely* encountered in local custody after his conviction for a gun crime; and Petitioner was *personally and uniquely* issued and served with a warrant for his arrest. *Contrast with Roble v. Bondi*, 803 F.Supp.3d 766 (granting habeas where no changed circumstances existed because "removal is [no] more likely than the day he was released on his Order of Supervision").

[8] Petitioner's Counsel appears to concede this aspect by arguing that his client's present detention is now pursuant to INA § 1226(a) due to the presence of a warrant. *See* Memo iso Motion (ECF 61), pgs. 5-6.

Petitioner's Counsel also characterizes the arrest as somehow amounting to a "collateral attack" on this Court's prior release order. *Id.*, pg. 6. "An action with an independent purpose and contemplative of another form of relief that depends on the overruling of a prior judgment is a collateral attack." *Popp Telcom v. Am. Sharecom, Inc.*, 210 F.3d 928, 941 (8th Cir. 2000). "It is well-settled in Minnesota that a facially valid judgment is not subject to collateral attack. When a judgment is alleged to be simply erroneous or attacked on the basis of anomalies unrelated to the court's jurisdiction, collateral attack is not an option." *Id.* (quotations omitted). Petitioner's argument gross misapplies the collateral attack doctrine, as Respondents have not attempted to reverse or overturn the Court's prior release order, nor does a defense of Petitioner's present arrest require such *because it is based new law and material factual circumstances* that did not previously exist.

Petitioner also argue that his re-arrest violates the Constitution. First, there was no "release" to revoke, as Petitioner was released without conditions, nor does Petitioner cite to any authority requiring such notice and opportunity to be heard where no conditional release exists. And Petitioner was aware of the circumstances of arrest via the warrant that was served on him, which informed him that he was under arrest: "the pendency of ongoing removal proceedings." *Northwood Decl.*, Ex. D. Second, while Petitioner may wish to challenge his *present* detention on Constitutional grounds, he is free to do so in a new habeas filing – but attempting to hold Respondents in violation of a court order (let alone as a basis for contempt) based on a new legal theory not present in the Court's Order that Respondents allegedly violated is nonsensical.

Finally, Petitioner argues that his deferred action status requires release. A grant of deferred action is merely prosecutorial discretion to not prioritize removal; it does not prevent initiation or completion of removal proceedings. *See* 8 CFR 274a.12(c)(14) ("Deferred action" is "an act of administrative convenience to the government that gives some cases lower priority" for removal.). Petitioner's reliance on *Walter A.*, 25-cv-4720 (SRN/LIB), is simply misplaced and reveals his misunderstanding of his current detention. *Walter A.*, dealt with an individual detained pursuant to a final order of removal, INA § 1231; whereas here, Petitioner is detained pursuant to ongoing removal proceedings, INA § 1225/1226 – which will end either with relief or a final order of removal, at which point Petitioner's deferred action, should he still retain it, may then become relevant to continued detention under § 1231. Even if Respondents therefore waived this argument previously, such does not now justify or mandate release.

CONCLUSION

If the Court therefore rejects the mootness argument, then it should nonetheless deny Petitioner's motion. Petitioner's current arrest is based on new material legal development and new material factual circumstances; and no violation of the Court's order therefore occurred.[9] And, as Respondents already complied with the Court's Order by releasing Petitioner, the Court should deny Petitioner's motion with prejudice.

[9] Federal Respondents acknowledge that the Motion to Enforce also raises a challenge to the present detention under the Constitution; such arguments would be well-placed and ripe in a *new* habeas petition but misplaced in this motion where the Court's Order alleged to have been violated was not based a violation of Petitioner's Constitutional rights.

Respectfully submitted,

Dated: August 19, 2026

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