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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ARIZONA

Yeniffer Yisandra Labrada-Pelegrin,

Petitioner,

v.

Markwayne Mullin, *et al.*[1],

Respondents.

No. CV-26-02824-PHX-MJM (ASB)

RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS

I. INTRODUCTION AND RELEVANT FACTS.

[1] The Respondents named in this case are Eric Rokosky (warden of the Eloy Detention Center), Markwayne Mullin (Secretary of Homeland Security), and Sirce Owen (Acting Director of the Executive Office for Immigration Review). Only Mr. Rokosky is a proper respondent. *See Doe v. Garland*, 109 F.4th 1188, 1195–96 (9th Cir. 2024) (holding that neither an ICE Field Office Director nor the Attorney General are proper respondents in a challenge to immigration detention); *see also Rumsfeld v. Padilla*, 542 U.S. 426, 439–40 & n.13 (2004) ("In challenges to present physical confinement, we reaffirm that the immediate custodian, not a supervisory official who exercises legal control, is the proper respondent."). A habeas petition may never have multiple respondents, because the only "proper respondent is the warden of the facility where the prisoner is being held, not the Attorney General or some other remote supervisory official." *See Doe*, 109 F.4th at 1195 (quoting *Padilla*, 542 U.S. at 435). The Court should dismiss all Respondents other than Mr. Rokosky.

Respondents hereby respond to the Petition for a Writ of Habeas Corpus (Doc. 1). Petitioner's suit alleges that she was entitled to a hearing before she was detained on October 13, 2025. Petition at ¶¶ 21–22 However, Petitioner admits that since her initial detention, an immigration judge ordered her removed from the United States, and on February 6, 2026, Petitioner's deadline to appeal that order expired. *Id.* at ¶¶ 25–26. Accordingly, on February 6, 2026, Petitioner's removal order became final, and she entered the statutory "removal period." 8 U.S.C. § 1231(a)(1)(A). Immigration officials must detain any alien who has entered the removal period. 8 U.S.C. § 1231(a)(2)(A). Courts have overwhelmingly acknowledged that claims of inadequate process prior to pre-final order detention do not affect the government's ability to detain an alien under Section 1231. *See, e.g.*, *Singh v. Warden*, No. 1:26-cv-01406-KES-HBK (HC), 2026 U.S. Dist. LEXIS 90342, at *2, 5 & n.2 (E.D. Cal. Apr. 23, 2026); *Oliveros v. Kaiser*, No. 25-cv-07117-BLF, 2026 U.S. Dist. LEXIS 94783, at *18–19 (N.D. Cal. Apr. 29, 2026); *Banjoko v. Blanche*, No. 2:26-cv-00016-MIS-JMR, 2026 U.S. Dist. LEXIS 76834, at *4 (D.N.M. Apr. 6, 2026). The Court should deny the Petition.

II. LEGAL ANALYSIS.

a. Petitioner's due process claim is moot.

Petitioner argues that her detention is unlawful because she did not receive a hearing before she was initially detained. Petition at ¶¶ 49–85. However, Petitioner is now required to be detained under Section 1231(a)(2)(A) because of her final order of removal. Accordingly, even if Petitioner's detention required a pre-deprivation hearing, it is now lawful because she must be detained until the removal period expires. The Court should deny the Petition.

Federal courts have jurisdiction only over "Cases and Controversies." *United States Parole Comm'n v. Geraghty*, 445 U.S. 388, 395 (1980) (internal quotation marks omitted). "The case or controversy requirement of Article III admonishes federal courts to avoid premature adjudication and to abstain from entangling themselves in abstract disagreements." *Cardenas-Leal v. Lucero*, 2017 U.S. Dist. LEXIS 168043 at *7–8 (D. Ariz. Sept. 7, 2017) (quoting *U.S. West, Inc. v. Tristani*, 182 F.3d 1202, 1208 (10th Cir. 1999)).

To present a court with a case or controversy, a party "must demonstrate an invasion of a legally protected interest which is (a) concrete and particularized and (b) actual or imminent, not conjectural or hypothetical." *Bishop Paiute Tribe v. Inyo Cty.*, 863 F.3d 1144, 1153 (9th Cir. 2017) (quoting *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560 (1992)) (internal quotation marks omitted). At any stage of the proceeding, a case becomes 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). The test for mootness is whether the court can give a party any effective relief if it decides the matter on the merits in their favor. *Reimers v. Oregon*, 863 F.2d 630, 632 (9th Cir. 1989). A case loses its quality as a live controversy and becomes moot when the court can no longer issue effective relief. *Feldman v. Bomar*, 518 F.3d 637, 642-43 (9th Cir. 2008); *see also Picrin-Peron v. Rison*, 930 F.2d 773, 775 (9th Cir. 1991) ("if it appears that [the court is] without power to grant the relief requested, then the case is moot.").

There are three statutes that govern detention of aliens whom the government seeks to remove: Section 1225, which governs the detention of certain aliens not eligible for admission; Section 1226, which permits the detention of any alien in removal proceedings; and Section 1231, which applies to any alien who is in the statutory "removal period" or for whom the removal period has lapsed. *See Prieto-Romero*, 534 F.3d at 1058–59. The removal period begins on the latest of three possible dates: "[t]he date the order of removal becomes administratively final[;] [i]f the removal order is judicially reviewed and if a court orders a stay of the removal of the alien, the date of the court's final order[; or i]f the alien is detained or confined (except under an immigration process), the date the alien is released from detention or confinement." 8 U.S.C. § 1231(a)(1)(B). Section 1231(a)(2) requires the detention of an alien who is in the removal period. 8 U.S.C. § 1231(a)(1)(B)(i), (a)(2)(A). The Ninth Circuit has held that Section 1231(a)(2) is constitutional. *Khotesouvan v. Morones*, 386 F.3d 1298, 1299, 1301 (9th Cir. 2004). Once the removal period has lapsed, an alien who was found to be inadmissible under 8 U.S.C. § 1182 may be detained for a longer period. 8 U.S.C. § 1231(a)(6).

Petitioner's removal order became administratively final when her time to appeal to the BIA lapsed. 8 U.S.C. § 1101(a)(47)(B)(ii). Petitioner concedes that she did not timely file an appeal with the BIA, Petition at ¶ 26, so her detention authority shifted to 8 U.S.C. § 1231(a)(2) on February 6, 2026. *Id.*; *see also* 8 C.F.R. § 1003.38(b). Petitioner is therefore subject to mandatory detention under Section 1231(a)(2)(A) until May 7, 2026, and she will thereafter may lawfully be detained under Section 1231(a)(6) because she was found to be inadmissible under 8 U.S.C. § 1182. *See* Declaration of Brandy Berghouse, attached as Exhibit A, at ¶ 5. Courts have held overwhelmingly that constitutional claims challenging pre-final order detention are mooted when the detention authority shifts from Section 1225(b) to Section 1231. *See, e.g.*, *Inamzhon v. Warden*, 2025 U.S. Dist. LEXIS 217474, at *6–7 (E.D. Cal. Nov. 23, 2025); *Ndudzi v. Perez*, 509 F. Supp. 3d 943, 946–48 (S.D. Tex. 2020); *Fernandez v. Scott*, 2026 U.S. Dist. LEXIS 44557, at *6–8 (W.D. Wash. Mar. 4, 2026); *Francisco P. G. v. Decker*, 2019 U.S. Dist. LEXIS 179774, at *4–6 (D.N.J. Oct. 17, 2019). Thus, Petitioner's claim for relief is moot and must be dismissed.

Petitioner's six claims for relief all center around the claim that Petitioner was wrongfully detained when immigration officials terminated her supervised release without notice or a chance to respond. *See* Petition at ¶¶ 49–93.[2] Even if Petitioner were correct, her detention is now lawful, because she is required to be detained for 90 days following her removal order becoming final. Accordingly, Petitioner's claim for relief is moot, and she has failed to show that he "is in custody in violation of the Constitution or laws or treaties of the United States," so her Petition must be denied. 28 U.S.C. § 2241(c)(3).

III. CONCLUSION.

In light of the above, Respondents respectfully request the Court deny Petitioner's Petition for Writ of Habeas Corpus.

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[2] Petitioner's Count Five simply claims that there is no legal authority for her detention, Petition at ¶¶ 86–88, but this claim is meritless, as shown above. *See supra* pp. 3–4.

RESPECTFULLY SUBMITTED this 30th day of April, 2025.

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