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9 **UNITED STATES DISTRICT COURT**
10 **SOUTHERN DISTRICT OF CALIFORNIA**

11 CRISTIAN TERRONES-DELGADO,

12
13 Petitioner,

14 v.

15 MARKWAYNE MULLIN, et al.,

16
17 Respondents.

Case No.: 25-cv-3009-DMS-BJW

**RESPONDENTS' RETURN TO
HABEAS PETITION AND
OPPOSITION TO PETITIONER'S
MOTION FOR INJUNCTIVE
RELIEF**

I. Introduction

Petitioner filed a habeas petition on May 13, 2026. ECF No. 1. Petitioner was removed to Mexico again on the morning of May 13, 2026. He is no longer in ICE custody. On May 14, 2026, the Court ordered a response and enjoined transfer. ECF No. 2. The Court should dismiss this petition for lack of subject matter jurisdiction as moot.

II. Factual and Procedural Background

Petitioner is a citizen and national of Mexico. On August 24, 2011, Customs and Border Protection (CBP) Officers apprehended Petitioner and issued an expedited removal order. Exhibit 1 (I-213). Petitioner was subsequently removed to Mexico. *Id.* Petitioner attempted to enter the United States again on July 31, 2018, and September 29, 2018. *Id.* In each instance, CBP reinstated the removal order and removed Petitioner back to Mexico. *Id.* On April 17, 2026, ICE ERO apprehended Petitioner in the United States and held him for potential prosecution under 8 U.S.C. §1326. *Id.* Petitioner was released into ICE ERO custody on April 28, 2026. *Id.* ICE ERO reinstated his prior removal order and processed him for removal back to Mexico. *Id.* ICE ERO served Petitioner with a Form I-205 Warrant of Removal/Deportation. On May 13, 2026, Petitioner was removed to Mexico. Declaration of Supervisory Detention Deportation Officer Martin Parsons at ¶ 5. This Court granted the request to enjoin transfer out of the District on May 14, 2026. ECF No. 2. Respondents' counsels requested Petitioner's counsel's consent to the dismissal of the action. Petitioner's counsel has not responded.

III. Argument

There is no "case" or "controversy" when an issue is moot. "[T]he question of mootness is . . . one which a federal court must resolve before it assumes jurisdiction." *North Carolina v. Rice*, 404 U.S. 244, 246 (1971). "A case becomes moot—and therefore no longer a Case or Controversy for purposes of Article III—when the issues presented are no longer live or the parties lack a legally cognizable interest in the outcome." *Already, LLC v. Nike, Inc.*, 568 U.S. 85, 91 (2013) (internal quotation marks

1 and citations omitted). The Supreme Court has routinely cautioned that a case becomes
2 moot “if an event occurs while a case is pending on appeal that makes it impossible for
3 the court to grant ‘any effectual relief whatever’ to a prevailing party.” *Church of*
4 *Scientology of Cal. v. United States*, 506 U.S. 9, 12 (1992). Thus, even a once-justiciable
5 case becomes moot and must be dismissed “when the issues presented are no longer
6 ‘live’ or the parties lack a legally cognizable interest in the outcome.” *Powell v.*
7 *McCormack*, 395 U.S. 486, 496 (1969). “[A] petitioner’s release from detention under
8 an order of supervision moot[s] his challenge to the legality of his extended detention.”
9 *Panosyan v. Mayorkas*, 854 Fed. App’x 787, 788 (9th Cir. 2021) (quoting *Abdala v.*
10 *INS*, 488 F.3d 1061, 1063 (9th Cir. 2007)).

11 Petitioner’s habeas petition requested this Court facilitate his release from ICE
12 custody and temporarily enjoin his removal. Since Petitioner has already been removed
13 and he is no longer in ICE custody, the court cannot grant “any effectual relief
14 whatever” to him. *Church of Scientology of Cal.*, 506 U.S. at 12; see *Picrin-Peron v.*
15 *Rison*, 930 F.2d 773, 775 (9th Cir. 1991) (case is moot if court lacks power to grant
16 relief can be granted). To the extent that Petitioner’s desired relief was to be released
17 from ICE custody, he has already obtained that relief.

18 Further, Petitioner does not allege any collateral consequences of his claim that
19 sound in habeas.¹ To the contrary, “[i]t is clear that the direct consequences of the
20

21 ¹ An individual may seek habeas relief under 28 U.S.C. § 2241 if he is “in custody”
22 under federal authority “in violation of the Constitution or laws or treaties of the United
23 States.” 28 U.S.C. § 2241(c). But habeas relief is available to challenge only the legality
24 or duration of confinement. *Pinson v. Carvajal*, 69 F.4th 1059, 1067 (9th Cir. 2023);
25 *Crawford v. Bell*, 599 F.2d 890, 891 (9th Cir. 1979); *Dep’t of Homeland Security v.*
26 *Thraissigiam*, 591 U.S. 103, 117 (2020) (The writ of habeas corpus historically
27 “provide[s] a means of contesting the lawfulness of restraint and securing release.”).
28 The Ninth Circuit squarely explained how to decide whether a claim sounds in habeas
jurisdiction: “[O]ur review of the history and purpose of habeas leads us to conclude
the relevant question is whether, based on the allegations in the petition, release is
legally required irrespective of the relief requested.” *Pinson*, 69 F.4th at 1072 (emphasis
in original); see also *Nettles v. Grounds*, 830 F.3d 922, 934 (9th Cir. 2016) (The key

1 action challenged here can no longer be remedied in habeas” and his claim is moot.
 2 *Chan v. Sec’y of Homeland Sec.*, No. 16-01709-VBF (GJS), 2016 WL 4204596, at *2
 3 (C.D. Cal. Aug. 5, 2016) (quoting *Cox v. McCarthy*, 829 F.2d 800, 803 (9th Cir. 1987));
 4 *see Singh v. ICE Field Office Director*, No. 24-cv-400-TL-TLF, 2024 WL 3258090, at
 5 *1 (W.D. Wash. June 12, 2024) (“because petitioner’s habeas petition challenges only
 6 the length of his detention, his claims were fully resolved by release from custody.”);
 7 *Shawn-D Omar W. v. Mayorkas*, No. 23-cv-511 JLS (BLM), 2023 WL 6627816, at *2
 8 (S.D. Cal. Oct. 10, 2023) (finding petition seeking release from ICE custody pending
 9 removal was moot where petitioner was released from ICE custody); *Ying Jiao Ye v.*
 10 *Nordheim*, No. 218cv10072 JVS (KES), 2019 WL 979245, at *3 (C.D. Cal. Feb. 27,
 11 2019) (“[H]abeas petitions that raise claims that are fully resolved by release from
 12 custody are rendered moot upon the petitioner’s release.”).

13 IV. Conclusion

14 For the foregoing reasons, Respondents respectfully request that the Court deny
 15 the motion for injunctive relief and dismiss the habeas petition.

16 DATED: May 21, 2026

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 28 inquiry is whether success on the petitioner’s claim would “necessarily lead to
 immediate or speedier release.”).