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UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

EASTERN DIVISION

Lazaro MALDONADO BAUTISTA, *et al.*,

Plaintiffs-Petitioners,

v.

Kristi NOEM, Secretary, Dept. of Homeland Security, *et al.*,[1]

Defendants-Respondents.

No. 5:25-cv-01873-SSS-BFM

DEFENDANTS' RESPONSE TO ORDER TO SHOW CAUSE

Hearing Date: October 17, 2025
Hearing Time: 1:00 p.m.
Courtroom: 2
Judge: Sunshine S. Sykes

[1] The undersigned does not represent Fereti Semaia, Warden, Adelanto ICE Processing Center, as Adelanto is a private facility and Warden Semaia is not a federal employee. However, all arguments made on behalf of the remaining Respondents apply with equal force to Warden Semaia, who was detaining the Petitioners at the request of the United States.

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INTRODUCTION

This case became moot over two months ago when Petitioners-Plaintiffs ("Petitioners") received the relief they sought—bond hearings—before they filed a motion to certify a class. This case began as a simple challenge to Respondents-Defendants ("Respondents") detention of Petitioners under 8 U.S.C. § 1225(b)(2), which requires mandatory detention, rather than the discretionary detention provisions of 8 U.S.C. § 1226(a), which permits, but does not entitle an alien to, bond hearings. Dkt. 1. Petitioners' individual interests in this litigation became moot when they received bond hearings, the relief they sought, and were released from custody. Dkt. 5, 14, 40, 41. Yet, Petitioners seek to prolong this case by litigating it as a nationwide class action. Dkt. 63.

When a habeas petitioner receives the bond hearing sought, as happened here over two-months ago, the petitioner no longer has an individual interest and the case is moot. *See Flores-Torres v. Mukasey*, 548 F.3d 708, 710 (9th Cir. 2008) (dismissing as moot portion of habeas petition seeking bond hearing upon grant of bond hearing); *see also Javier Ceja Gonzalez, et al. v. Kristi Noem, et al.*, 5:25-cv-02054-ODW (BFMx), Aug. 25, 2025 Order (found at Dkt. 54 in this case). In putative class actions, like this case, courts cannot certify a class if the named class representative's claims become moot prior to certification. *See United States v. Sanchez-Gomez*, 584 U.S. 381, 386 (2018). Petitioners contend numerous exceptions apply to these general mootness rules, however, all of the authorities they rely on to establish an exception are distinguishable from this case.

Petitioners' individual interests in this litigation are fully resolved, but they ask the Court to continue to litigate an issue on an advisory basis for a putative nationwide class in a venue of their choosing which had already granted the relief they had requested. The Court cannot and should not reward Petitioners' procedural games because their individual

stakes in this litigation became moot when they received bond hearings, well before they filed a motion for class certification.[2]

PROCEDURAL HISTORY

This began as, and should remain, a straightforward individual case; Petitioners filed individual writs of habeas corpus seeking release from immigration detention or bond hearings. Dkt. 1. Rushing to obtain this relief, Petitioners filed an ex parte temporary restraining order ("TRO"), which this Court granted on July 28, 2025. Dkt. 5, 14. The order enjoined Respondents from continuing to detain Petitioners unless Respondents provided Petitioners bond hearings under 8 U.S.C. § 1226(a). Dkt. 14. Hours after the Court issued the TRO granting relief to Petitioners, counsel from outside this district intervened by filing an amended petition and putative nationwide class action complaint, seeking to drastically change the nature of this case. Dkt. 15.

Respondents complied with the TRO and held bond hearings for each Petitioner by August 4, 2025. Dkt. 40. Petitioners each received bond. *Id.* On August 11, 2025, a week after the last Petitioner received the relief sought, Petitioners filed a motion for class certification. Dkt. 41. Considering these developments, the Court denied Petitioners a preliminary injunction. Dkt. 58. Instead, on September 11, 2025, the Court issued an order to show cause why this case is not moot and required both parties respond. *Id.* Petitioners filed their response to the Court's September 11 show cause order on September 24, 2025. Dkt. 63.

ARGUMENT

I. Petitioners' Injuries Have Been Redressed and Their Individual Claims are Moot

This case is moot because Petitioners received bond hearings, the relief they sought months ago. Petitioners sought release from immigration detention or bond hearings

[2] While outside the scope of the Court's order, Respondents maintain that this Court lacks jurisdiction over Petitioners' claims, *see* Dkt. 8 at 6-10, and will further develop those arguments should a motion to dismiss be filed.

pursuant to 8 U.S.C. § 1226(a). *See* Pet. Writ. Habeas Corpus, Dkt. 1, Prayer for Relief. By August 4, 2025, pursuant to the Court's order granting Petitioners' TRO application, each Petitioner had received a bond hearing before an immigration judge under 8 U.S.C. § 1226(a). Dkt. 40; 58. When a habeas petitioner receives the bond hearing sought, the petitioner no longer has an individual interest and the case is moot. *See Flores-Torres v. Mukasey*, 548 F.3d 708, 710 (9th Cir. 2008) (dismissing as moot portion of habeas petition seeking bond hearing upon grant of bond hearing); *Umanzor v. ICE Field Office Dir.*, No. C20-0687JLR, 2021 U.S. Dist. LEXIS 18930 (W.D. Wash. Feb. 1, 2021) (same); *Chui v. Kane*, No. CV-07-2519-PHX-DGC (GEE), 2009 WL 1357390 (D. Ariz. May 14, 2009) (same). Thus, Petitioners' claims were moot over two months ago.

Petitioners primarily rely on the plurality opinion in *Nielsen v. Preap*, 586 U.S. 392, 403 (2019) (plurality opinion), to argue this case is not moot. Dkt. 63 at 4-6 (citing *Nielsen*). But it is black letter law that a plurality opinion's reasoning is not binding. *See, e.g.*, *CTS Corp. v. Dynamics Corp. of Am.*, 481 U.S. 69, 81 (1987) (explaining that because a plurality opinion "did not represent the views of a majority of the Court, [the Court was] not bound by its reasoning"). And considering Circuit precedent finding habeas petitions, like Petitioners, are moot upon receiving a bond hearing, the Court should not follow non-binding reasoning at odds with precedent. *See Flores-Torres*, 548 F.3d at 710.

The concurrence in part of Justices Thomas and Gorsuch in *Preap* is instructive. *See Preap*, 586 U.S. at 422-27 (Thomas, J. concurring in part and concurring in the judgment). In *Preap*, petitioners challenged their mandatory detention under 8 U.S.C. § 1226(c) without bond hearings rather than § 1226(a) and sought to certify a class. *Id.* at 399-401. Like this case, all petitioners had received immigration relief or received bond hearings before a class was certified. *Id.* at 403. While a plurality of Justices found there was jurisdiction despite all petitioners receiving the relief they sought, *id.*, the concurrence expressly declined to join the conclusory reasoning in this portion of the opinion. *Id.* at 425-26. As the concurrence explained, all the individual named class representatives had received the relief they sought prior to class certification and once released on bond they

had failed to establish they would likely face a threat of redetention. *Id.* Because the plurality's conclusory jurisdictional finding in *Preap* is not controlling reasoning, the Court is not bound by Justice Alito's *ipse dixit* in the plurality and should instead apply the Ninth Circuit's precedent in *Flores-Torres* to find this case is moot.

None of the other authorities Petitioners cite are controlling. Petitioners first cite *Carafas v. LaVallee*, 391 U.S. 234, 238 (1968) as precedent establishing a mootness exception. Dkt. 63 at 5. However, in *Carafas* the Supreme Court found the habeas petition at issue was not moot despite the fact the petitioner had served his sentence because he still suffered the collateral consequences of the challenged criminal conviction like being unable to vote or serve as a juror. 391 U.S. at 237-38. Unlike the petitioner in *Carafas*, Petitioners here fail to demonstrate that they face continuing collateral consequences arising out of their prior civil immigration detention. Petitioners' other cited case, *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1195 n.2 (9th Cir. 2022), is also distinguishable. Dkt. 63 at 5. *Rodriguez Diaz* concerned whether the government's appeal was moot by complying with a court order, not whether the petitioners lacked standing because they had received all the relief they sought. *See* 53. F.4th at 1195 n.2.

Moreover, Petitioners fail to establish that any mootness exception applies. Petitioners claim that Respondents' conducting bond hearings is "voluntary cessation" insufficient to moot this case. Dkt. 63 at 6. Petitioners mischaracterize the judicial relief that they received as voluntary cessation because the bond hearings provided were pursuant to this Court's order. Dkt. 14; 40; 58. As such, Petitioners received exactly the relief they sought via a court order, making the voluntary cessation doctrine inapplicable.

Petitioners also claim that it is foreseeable they will be redetained despite obtaining bond pursuant to a federal court order. Dkt. 63 at 6. Their argument is speculative of a future event that assumes Respondents would violate this Court's order. Petitioners cite multiple cases to claim that Respondents have redetained previously released individuals. *Id.* at 6 n.1. These cases are distinct because in each case the petitioners were previously in government custody and released when they should have been subject to mandatory

detention under § 1225(b)(2). *See Hinestroza v. Kaiser*, No. 25-cv-07559-JD, 2025 WL 2606983, at *1 (N.D. Cal. Sept. 9, 2025); *Hernandez Nieves v. Kaiser*, No. 25-cv-06921-LB, 2025 WL 2533110, at *1 (N.D. Cal. Sept. 3, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-cv-06248-BLF, 2025 WL 2419263, at *1-2 (N.D. Cal. Aug. 21, 2025); *Guzman v. Andrews*, No. 1:25-cv-01015-KES-SKO (HC), 2025 WL 2617256, at *1 (E.D. Cal. Sept. 9, 2025). Here, however, Respondents had not previously encountered or detained Petitioners prior to the detention they challenged in this case and Petitioners' recent custody redeterminations were conducted under § 1226(a) pursuant to a federal court order. Petitioners' contention they will be redetained is completely speculative and premised on the assumption that the government will violate this Courts' order.

Because Petitioners received bond hearings, the relief they sought, over two months ago, their individual petitions are moot and they fail to establish any mootness exceptions apply in this case.

II. No Class Claims Persist Because Petitioners' Claims Were Moot Prior to Filing a Motion for Class Certification

Petitioners also attempt to circumvent mootness by alleging their putative class claims persist despite their individual claims becoming moot. As a general rule, a putative class action is moot if the named class representative's claims become moot before a class is certified. *See United States v. Sanchez-Gomez*, 584 U.S. 381, 386 (2018). Petitioners received the relief they sought by August 2025, mooting their claims, and, at which time, there was no certified class. Under the general rule, this entire action is now moot, regardless of the pending motion to certify a class.

Petitioners contend that their claims are "inherently transitory" which permits class certification to relate back to the filing of the Complaint despite named representatives' individual claims' mootness. Dkt. 63, 8-10. The "relation-back doctrine" Petitioners rely on applies in class actions when "it is certain that other persons similarly situated will continue to be subject to the challenged conduct and the claims raised are so inherently transitory that the trial court will not have even enough time to rule on a motion for class

certification before the proposed representative's individual interest expires." *Genesis Healthcare Corp. v. Symczyk*, 569 U.S. 66, 76 (2013) (internal quotations omitted) (quoting *County of Riverside v. McLaughlin*, 500 U.S. 44, 52 (1991)). "The 'inherently transitory' rationale was developed to address circumstances in which the challenged conduct was effectively unreviewable, because no plaintiff possessed a personal stake in the suit long enough for litigation to run its course." *Id.* But Petitioners' alleged injury—being subject to mandatory detention under § 1225(b)(2) rather than § 1226(a)—is not so transitory to fall within this exception.

The Supreme Court has held, in the criminal context, that a claim alleging a failure to provide prompt probable cause hearings within 48 hours of arrest was "inherently transitory." *See McLaughlin*, 500 U.S. at 47, 52. Here, however, Petitioners' detention is far longer than the short detention in *McLaughlin*. *See*, *e.g.*, *Preap*, 586 U.S. at 426 ("Members of the Court have recognized that aliens are held, on average, for one year, and sometimes longer.") (citing *Jennings v. Rodriguez*, 583 U.S. 281, 328 (2018) (Breyer J., dissenting)) (Thomas J., concurring in part and concurring in the judgment). Petitioners themselves allege their detention pending removal proceedings will be lengthy rather than short-lived. *See* Am. Compl. ¶¶ 1 ("Defendants now consider Plaintiffs as subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A), without the opportunity for release on bond during the pendency of their *lengthy* removal proceedings.") (emphasis added), 62 ("Without relief from this Court, [Petitioner Maldonado] faces the prospect of *months, or even years*, in immigration custody[.]") (emphasis added), 70 ("Without relief from this Court, [Petitioner Franco] faces the prospect of *months, or even years*, in immigration custody[.]") (emphasis added), 78 ("Without relief from this Court, [Petitioner Pascual] faces the prospect of *months, or even years*, in immigration custody[.]") (emphasis added), 86 ("Without relief from this Court, [Petitioner De Aquino] faces the prospect of *months, or even years*, in immigration custody[.]") (emphasis added).[3] The detention Petitioners

[3] In another case, *Rodriguez Vazquez v. Bostock*, No. 25-cv-5240 (W.D. Wash.), also being litigated by the Northwest Immigrant Rights Project of Seattle, the petitioners claimed that *(footnote cont'd on next page)*

face is not so short to be inherently transitory such that a court could not rule on class certification before the named representatives' claims became moot. *See Genesis Healthcare Corp.* 569 U.S. at 76.

The Supreme Court has also found that pretrial custody is inherently transitory when the length of custody is unascertainable because it could end at any time by release on recognizance, dismissal of the charges, or a final disposition in a guilty plea, acquittal, or conviction after trial. *See Gerstein v. Pugh*, 420 U.S. 103, 110 n.11 (1975). Petitioners' detention is distinct from the pretrial custody in *Gerstein* because Petitioners' detention is mandatory under § 1225(b)(2) throughout their removal proceedings and there is no possibility of release until a final removal order is entered and executed or petitioners obtain some other form of relief.[4] Thus, their detention is guaranteed to continue for "months, or even years," without the possibility of release. Am. Compl. ¶¶ 62, 70, 78, 86.

Petitioners overstate the precedential value of the numerous cases they cite to support their position. Petitioners first rely on the plurality opinion in *Preap* to argue that a court maintains jurisdiction to rule on a class action even after the named representatives' claims are moot. Dkt. 63 at 8. But again, as explained *supra*, the plurality opinion's reasoning is not binding and it is precisely this jurisdictional finding that the concurrence quibbles with. *See Preap*, 586 U.S. at 426. The *Preap* concurrence was unpersuaded the named plaintiff's claims were so "'inherently transitory' as to preclude a ruling on class certification" before the representatives' claims became moot, especially given immigration detention can last months or years. *Id.* at 426-27. As such, *Preap* is not

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roughly 7 month-delays in bond decision appeals violated Due Process. *See Rodriguez Vazquez v. Bostock*, No. 25-cv-5240 (W.D. Wash.), Compli., Dkt 1, ¶¶ 56-60, 107-11. It is unclear how similarly situated petitioners' mandatory detention in another case can raise constitutional concerns of prolonged detention while the very same detention timeframe here is so inherently transitory that the Court cannot rule on class certification before the individual Petitioners' claims become moot.

[4] Even if Petitioners' detention were subject to 8 U.S.C. § 1226(a), Petitioners could still be subject to continued detention if they are found to be a flight risk or danger to the community. 8 U.S.C. § 1226(a)(1); 8 C.F.R. § 1003.19(h)(3). And the discretionary detention decision under § 1226(a) is not subject to judicial review. *See* 8 U.S.C. § 1252(a)(2)(B)(ii).

controlling.

Petitioners also contend that claims involving detention are "quintessential examples" of inherently transitory claims. Dkt. 63 at 9. But all the cited authorities are distinguishable. First, *McLaughlin*, involved claims seeking prompt probable cause hearings within 48 hours of arrest—a notably shorter period of detention than alleged here. *See McLaughlin*, 500 U.S. at 47, 52. Second, in *Gerstein* the record did not establish that the individual claims were moot before class certification. *See* 420 U.S. at 110 n.11. Rather, the Court explained that even if the individual claims were moot prior to class certification, the type of pretrial detention at issue could end at any moment for multiple reasons and was thus inherently transitory. *Id.* Here, as explained above, Petitioners' detention is mandatory and will continue until the full conclusion of their proceedings. *See supra.* Petitioners' reliance on *U.S. Parole Comm'n v. Geraghty*, 445 U.S. 388 (1980), is similarly misplaced. In *Geraghty*, the Court held that named plaintiffs, who received judgment in their favor on their individual claims but whose class certification was denied, continued to have an interest in appealing the *denied* class certification to establish appellate standing. *See* 445 U.S. at 400. *Geraghty* does not stand for the proposition that a class can be certified when the individual named representatives have already received relief. *Wade v. Kirkland* is strikingly similar to *Geraghty*. *See* 118 F.3d 667 (9th Cir. 1997). In *Wade*, the Ninth Circuit held that a plaintiff whose claim was moot may continue to have a personal stake in a class certification on appeal when the district court never ruled on the pending class certification motion. *Id.* at 669-70. None of these cases establish that a court can certify a class when a named representative's claim becomes moot prior to certification.

No exception to the general rule of mootness applies here. Petitioners' individual claims became moot when they rushed to obtain individual relief prior to class certification and because their claims are not inherently transitory, they fail to establish class certification can relate back to the time they filed the amended complaint.

CONCLUSION

For these reasons, Defendants respectfully request that the entire case be dismissed.

Dated: October 8, 2025

Respectfully submitted,

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LOCAL RULE 11-6.2 CERTIFICATE OF COMPLIANCE

The undersigned, counsel of record for Defendants certifies that this brief contains 2866 words, which complies with the word limit of L.R. 11-6.1.

Dated: October 8, 2025

/s/ *Malcolm McDermond*
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CERTIFICATE OF SERVICE

I certify that on October 8, 2025, I electronically filed the foregoing with the Clerk of Court by using the CM/ECF system, which will provide electronic notice pursuant to L.R. 5-3.2.1 to the following attorneys of record:

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