

1 **DAO**

2
3 **DISTRICT COURT**
CLARK COUNTY, NEVADA

4 AMERICAN CIVIL LIBERTIES UNION)
5 OF NEVADA, a domestic nonprofit)
6 Organization; SERGIO MORAIS-)
7 HECHAVARRIA, an individual,)

8 Petitioners,)

9 v.)

10 LAS VEGAS METROPOLITAN POLICE)
11 DEPARTMENT, a government entity;)
12 KEVIN MCMAHILL, in his official)
13 Capacity as Las Vegas Metropolitan Police)
14 Department Sheriff,)

15 Respondents.,)

CASE NO. A-25-930343-W

DEPT. NO. III

16 **DECISION AND ORDER**

17 This matter came before the court on November 26, 2025, Petitioners being represented by
18 Sadmira Ramic and Christopher Peterson and Respondents by Alexander Fugazzi and Alexis
19 Wendl. After hearing the arguments of counsel, the court ordered supplemental briefing on the
20 limited issue of the recurrence of similar issues in other cases as they relate to the exception to the
21 mootness doctrine. Specifically, the court directed Petitioners to show how the 957 cases cited in
22 *Exhibit 7 to the Opening Brief* were similar to the instant case. Petitioners asserts that in 2025, the
23 Las Vegas Metropolitan Police Department (LVMPD) received 957 requests to detain people on
24 its behalf from the U.S. Immigration, Customs and Enforcement (ICE). Having reviewed the
25 Petition for Writ of Mandamus Or, in the Alternative, Verified Petition for Writ of Habeas Corpus,
26 Petitioners' Opening Brief, Respondents' Response, Petitioners' Reply, Petitioners' Supplemental
27 Briefing, Respondents' Response to Supplemental Briefing and the Reply, the attached exhibits
28 on file and considered arguments of counsel, the court hereby DENIES the Petition for Writ of
Mandamus Or, in the Alternative, Verified Petition for Writ of Habeas Corpus for the reasons set
forth below.

1 **Facts Relevant to the Petition**

2 On July 8, 2025, Petitioner Sergio Morais-Hechavarria (Morais-Hechavarria) entered a
3 plea of guilty to one count of Attempt Possession of Stolen Vehicle in case number C-25-392542-
4 1. On August 19, 2025, the Honorable Tara Clark-Newberry sentenced him to three hundred and
5 sixty-four days in the Clark County Detention Center (CCDC), but suspended the sentence and
6 placed him on probation for a period not to exceed twelve months. As a special condition to
7 probation, the court ordered him to enter and complete an inpatient drug treatment program and
8 he was to remain in custody pending transport to the program. *Exhibit 6 to the Opening Brief.*

9 Thereafter, the CCDC informed Morais-Hechavarria’s attorney that he could not be
10 released to inpatient treatment as a result of his ICE warrant. *Exhibit 5 to the Opening Brief.* The
11 court notes that the CCDC possessed a Department of Homeland Security Form I-247A, an
12 Immigration Detainer - Notice of Action which indicated there was a final order of removal against
13 Morais-Hechavarria. *Exhibit I to Respondents’ Response.* The CCDC also possessed an ICE form
14 I-205, a Warrant of Removal/Deportation, which stated that Morais-Hechavarria was subject to
15 removal/deportation upon a final order by an immigration judge. *Exhibit J to Respondents’*
16 *Response.* On October 14, 2025, the CCDC placed Petitioner on the list to be released on October
17 16, 2025. *Exhibit P to Respondents’ Response.* On October 16, 2025, the CCDC sent an email
18 notifying ICE that it would release Morais-Hechavarria that morning. *Exhibit A to Respondents’*
19 *Response.* ICE detained Morais-Hechavarria at the jail release window as the CCDC released him.
20 *Id.*

21 On June 16, 2025, Respondent Sheriff Kevin McMahill entered into a Memorandum of
22 Agreement (MOA) on behalf of the LVMPD related to the Warrant Service Officer Program with
23 ICE. *Exhibit 1 to Opening Brief.* This agreement, also known as a 287(g) agreement, outlined the
24 duties of each party and identified specific training, testing and authorization letters required
25 before a LVMPD officer could be considered a Designated Immigration Officer. *Id.* The MOA
26 was not operational at the time that the CCDC released Morais-Hechavarria from custody and ICE
27 subsequently detained him. *Exhibit A to Respondents’ Response.* Specifically, the LVMPD officers
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1 had not completed the required training, ICE had not issued authorization letters or credentials and
2 no LVMPD officer served or executed any warrant pursuant to the MOA at the time ICE detained
3 Morais-Hechavarria. *Id.*

4 On October 13, 2025, Petitioners filed the instant petition that contained four claims of
5 relief: (1) Violation of NRS 211.060 “Unlawfully Housing People on Behalf of the United States”,
6 (2) Violation of Dillon’s Rule “Unlawfully Entering into the Agreement Without Grant of Power
7 by Nevada’s Legislature”, (3) Violation of Art. 1, § 18 of the Nevada Constitution and NRS 31.470
8 “Unlawfully Conducting Civil Arrests” and, (4) Violation of Dillon’s Rule and Art. 1, § 18 of the
9 Nevada Constitution “Executing Immigration Arrests without Authorization from the Nevada
10 Legislature”. *Petition*, pp. 19-24.

11 **Petition for Writ of Habeas Corpus**

12 Pursuant to NRS 34.360, a person may challenge the legality of his or her detention or
13 restraint by filing a petition for writ of habeas corpus. Morais-Hechavarria was detained at the time
14 the instant petition was filed, however ICE deported him during the pendency of this matter. As
15 such, Petitioners acknowledged that they are proceeding solely on the petition for writ of
16 mandamus. *Reporter’s Transcript of Hearing* (RTH), p. 28. The court concludes that since Morais-
17 Hechavarria is no longer in Respondents’ custody, the petition for writ of habeas corpus is moot.

18 **Petition for Writ of Mandamus**

19 A district court may issue a writ of mandamus, “to compel the performance of an act that
20 the law requires as a duty resulting from an office, trust, or station or to control an arbitrary or
21 capricious exercise of discretion.” *International Game Technology, Inc. v. Second Judicial Dist.*
22 *Court*, 124 Nev. 193, 197, 179 P.3d 556, 558 (2008). A writ of mandamus is an extraordinary
23 remedy that is only available when a petitioner has no plain, speedy or adequate remedy at law.
24 NRS 34.170. The Nevada Supreme Court has cautioned that while a district court has the discretion
25 to issue writs of mandamus, “it should grant such relief only to compel the performance of an act
26 that the law requires, or to control an arbitrary or capricious exercise of discretion.” *Kay v. Nunez*,
27 122 Nev. 1100, 1105, 146 P.3d 801, 805 (2006).

1 **A. Standing**

2 A petitioner establishes standing in mandamus proceedings by demonstrating he or she has
3 a beneficial interest in obtaining writ relief. *Heller v. Legislature of State of Nevada*, 120 Nev. 456,
4 460-61, 93 P.3d 746, 749 (2004). *See also* NRS 34.170 (stating that a writ shall be issued upon
5 affidavit, on the application of the party beneficially interested). A beneficial interest is a, “direct
6 and substantial interest that falls within the zone of interests to be protected by the legal duty
7 asserted.” *Id.* at 461. The Nevada Supreme Court has stressed that, “if a petitioner will gain no
8 direct benefit from the writ’s issuance and suffer no direct detriment from its denial, then the
9 petition should be denied.” *Bd. of Parole Comm’rs v. Second Judicial Dist. Court*, 135 Nev. 398,
10 400, 451 P.3d 73, 76 (2019).

11 Petitioner American Civil Liberties Union of Nevada (ACLU) asserts that it has standing
12 to pursue the stated claims pursuant to the public-importance exception recognized in *Nevada*
13 *Policy Research Institute, Inc. v. Cannizzaro*, 138 Nev. 259, 507 P.3d 1203 (2022). *Reply to*
14 *Response to Supplemental Briefing*, p. 9. The ACLU does not assert associational standing. *Id.* The
15 Nevada Supreme Court first recognized the public-importance exception to standing when it
16 concluded that, “a Nevada citizen may raise constitutional challenges to legislative expenditures
17 or appropriations without a showing of a special or personal injury.” *Schwartz v. Lopez*, 132 Nev.
18 732, 743, 382 P.3d 886, 894 (2016). To qualify for this exception, a plaintiff must raise an issue
19 of significant public importance that involves a challenge to a legislative expenditure or
20 appropriation based on a constitutional violation under the Nevada Constitution and the plaintiff
21 must be an appropriate party. *Id.* *Cannizzaro* extended the exception to include cases that allege a
22 violation of the Nevada Constitution’s separation-of-powers clause. 138 Nev. at 263, 507 P.3d at
23 1208.

24 The ACLU is a non-partisan, nonprofit organization whose mission is to defend and
25 advance the civil liberties and civil rights of Nevadans. *Exhibit 7 to Opening Brief*. In pursuit of
26 that mission, the ACLU has litigated lawsuits, “related to ensuring government actors are
27 transparent and acting within the bounds of Nevada law with respect to immigration enforcement.”
28 *Id.* While the ACLU asks this court to extend the public-importance exception to mandamus

1 proceedings, the Nevada Supreme Court has not previously addressed this exception solely in the
2 context of mandamus proceedings. Rather, the Court has repeatedly stressed that the standard
3 enunciated in *Heller* is the test for standing in mandamus proceedings. *See Reno Real Estate*
4 *Development, LLC v. Scenic Nevada, Inc.*, 141 Nev. Adv., Op. 48, 577 P.3d 683, (2025) (citing
5 the *Heller* test for standing); *Bd. of Pharmacy v. Cannabis Equity and Inclusion Cmty*, No. 85756,
6 No. 86128, 553 P.3d 440, 2024 WL 3664464 (Nev. Aug. 5, 2024) (Unpublished Disposition)
7 (identifying the test for standing in mandamus proceedings and also addressing the public-
8 importance exception as an exception to traditional standing where petitioners sought mandamus
9 as well as declaratory and injunctive relief). The Court has on more than one occasion noted that
10 the public-importance exception applies in actions for declaratory relief. *See Cannizzaro*, 138 Nev.
11 at 265 n.2, 507 P.3d at 1209 n.2. While the Nevada Supreme Court has applied the public-
12 importance exception in certain matters, it has not extended it to a proceeding involving solely a
13 writ of mandamus nor stated that it applied directly to the writ proceeding where it was combined
14 with another type of action, i.e., a complaint or request for declaratory relief. Petitioners have not
15 provided any authority for the proposition that the public-importance exception applies when
16 determining if a petitioner has standing to bring a writ of mandamus. While this court might agree
17 that the public-importance exception could apply in mandamus proceedings, it cannot speculate
18 how the Nevada Supreme Court will decide an issue in the future. *See Greater Las Vegas Short*
19 *Term Rental Ass'n v. Clark Cnty.*, No. 86264, 555 P.3d 265, 2024 WL 3934611 (Nev. Aug. 23,
20 2024) (Unpublished Disposition) (stating that, "[d]istrict courts are bound to follow controlling
21 legal precedent as set forth by appellate courts, not prognosticate about future changes to the law
22 that appellate courts might make."). Therefore, this Court analyzes standing under the *Heller*
23 standard.

24 **1. Standing- Morais-Hechavarria**

25 Morais-Hechavarria was released from custody in Nevada and deported. The court finds
26 that Morais-Hechavarria lacks standing to pursue any of the stated claims as he will gain no benefit
27 from the issuance of the writ nor suffer any detriment from the denial of the writ. Therefore, he
28

1 has no “direct and substantial interest that falls within the zone of interests to be protected by the
2 legal duty asserted.” *Heller*, 120 Nev. at 461, 93 P.3d at 749.

3 **2. Standing- the ACLU**

4 The court finds that the ACLU has standing to pursue claims one, three and four. The
5 ACLU lacks standing to pursue claim two.

6 In claim one, the ACLU asserts that the LVMPD unlawfully houses people on behalf of
7 the United States. While the ACLU focuses on the costs associated with incarceration, it also
8 argues that Respondents are unlawfully detaining people in civil matters. *Opening Brief*, pp. 12-
9 13. The stated mission of the ACLU is to protect the civil liberties of Nevadans. *Exhibit 7 to the*
10 *Opening Brief*. Additionally, it provides information to Nevadans regarding their rights under
11 Nevada law in immigration matters. *Id.* Therefore, the ACLU has a beneficial interest in ensuring
12 that the LVMPD acts in accordance with Nevada law when it detains individuals on behalf of the
13 United States. Ensuring that the LVMPD acts in accordance with Nevada law not only protects the
14 civil liberties of Nevadans, but also allows the ACLU to provide accurate information to the public.

15 As to claim two, the ACLU asserts that Respondents do not have authority to enter into
16 287(g) agreements with the federal government to enforce civil immigration laws. *Petition*, pp.
17 21-22. In mandamus proceedings, the court must focus on the legal duty asserted. Placed in that
18 context, the ACLU asserts that Respondents have a legal duty to enter into lawful agreements or
19 those explicitly authorized by the Nevada legislature. While the court agrees that the LVMPD
20 should only enter into lawful agreements, the ACLU has no direct beneficial interest in which
21 agreements the LVMPD enters into. *See Garmong v. Lyon Cnty. Bd. of Commissioners*, No. 74644,
22 439 P.3d 962, 2019 WL 1989191 (Nev. May 3, 2019) (Unpublished Disposition) (stating, “the
23 party seeking writ relief must show a ‘direct and substantial interest’ not just a generalized interest
24 as a citizen”). The ACLU has a beneficial interest in protecting civil liberties, as noted above,
25 however, the act of entering into an unlawful agreement does not necessarily result in a violation
26 of civil liberties.

27 In claim three, the ACLU alleges that Respondents are unlawfully detaining individuals
28 even after their criminal charges have been satisfied for the sole purpose of releasing them to ICE.

1 Consistent with its mission, the ACLU has a beneficial interest in ensuring that the LVMPD acts
2 in accordance with Nevada law when it detains individuals.

3 Lastly, in claim four, the ACLU asserts that because immigration is a civil matter, LVMPD
4 officers have no authority to detain individuals for immigration violations. More specifically, the
5 ACLU argues that warrants of arrest or deportation do not justify detention because they are not
6 issued by a judge or magistrate as required by Nevada law. *Petition* pp. 26-27. Again, similar to
7 claims one and three, the ACLU has a beneficial interest in ensuring that individuals are not
8 detained in violation of Nevada law.

9 While the court has concluded that standing is determined using the *Heller* standard, in an
10 abundance of caution, the court also finds that the public-importance exception as discussed in
11 *Schwartz* and *Cannizzarro* would not apply in this matter. The Nevada Supreme Court has held
12 that "the public-importance exception is narrow." *Schwartz*, 132 Nev. at 743, 382 P.3d at
13 894. While the issues presented in the petition are of significant public importance and the ACLU
14 arguably would be an appropriate party to assert the challenge, the issues do not involve a
15 legislative expenditure as required by *Schwartz* or a separation-of-powers violation as required by
16 *Cannizzarro*. The ACLU asserts, in the petition and opening brief, that the LVMPD will unlawfully
17 expend funds under the MOA, however, those funds are not legislative expenditures or
18 appropriations. Instead, any hypothetical expenditures arising from the MOA would be executive
19 branch expenditures and no case law indicates that the Nevada Supreme Court intended to include
20 executive expenditures in the exception. The ACLU also asserts that the issues in this case present
21 a separation-of-powers violation. Specifically, the ACLU claims that the LVMPD, an executive
22 branch entity, has infringed on the authority of the Nevada legislature by entering into agreements
23 without explicit statutory authority. RHT, p. 4. This falls short of an allegation that Respondents
24 are "exercis[ing] any functions, appertaining to either of the others" as required by *Cannizzarro*. 138
25 Nev. at 264, 507 P.3d at 1209. The Nevada Supreme Court has stressed that the public-importance
26 exception is limited to extraordinary cases within the subset of cases alleging a separation-of-
27 powers violation. As such, this court cannot extend the exception beyond what the Nevada
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1 Supreme Court has repeatedly identified as a very narrow exception. 138 Nev. at 263, 507 P.3d at
2 1208.

3 **B. Mootness**

4 It is well-settled that, “a controversy must be present through all stages of the proceeding,
5 and even though a case may present a live controversy at its beginning, subsequent events may
6 render the case moot.” *Personhood Nevada v. Bristol*, 126 Nev. 599, 602, 245 P.3d 572, 574 (2010)
7 (internal citations omitted). This case has been rendered moot as Morais-Hechavarria was released
8 from custody.

9 The ACLU asks this court to consider the instant petition under an exception to the
10 mootness doctrine. Even if issues are moot, a court may consider the issues if they are of
11 widespread importance and capable of repetition, yet evading review. *Id.* To overcome mootness,
12 petitioners must show, “(1) the duration of the challenged action is relatively short, (2) there is a
13 likelihood that a similar issue will arise in the future, and (3) the matter is important.” *Bisch v. Las*
14 *Vegas Metropolitan Police Department*, 129 Nev. 328, 335, 302 P.3d 1108, 1113 (2013) (internal
15 citations omitted).

16 In analyzing the factors outlined in *Bisch*, the court finds that Petitioners have not satisfied
17 the factors as explained below and therefore the exception to the mootness doctrine does not apply
18 in this matter.

19 In Morais-Hechavarria’s criminal case, a district court ordered him released to inpatient
20 treatment on August 19, 2025. *Exhibit 5 to Opening Brief*. As a result of his ICE hold, the CCDC
21 held Morais-Hechavarria for almost two months after a court ordered his release to inpatient
22 treatment. Two months is a relatively short period of time. Additionally, based on the LVMPD’s
23 updated Policy 4.16, the DSD Policy 12.330 and the MOA, the period of extended detention would
24 be even shorter in future cases as the policy limits the hold to forty-eight hours. *Exhibits A and B*
25 *to the Response to Supplemental Briefing and Exhibit 1 to the Opening Brief*. As such, the duration
26 of the challenged action here is relatively short and Petitioners satisfy the first factor.

27 In its Supplemental Brief, the ACLU provided the court with an excel spreadsheet listing
28 certain data including the type of ICE forms in the CCDC’s possession and whether or not ICE

1 took action as a result of the ICE form. *Exhibit 1 to the Supplemental Brief*. The spreadsheet also
2 includes the date of the release notification. *Id.* However, the ACLU failed to include any
3 information about the date a court ordered each person released from custody and the duration of
4 the hold beyond the court-ordered release. While the spreadsheet lists the type of ICE form for
5 some people, that is whether it was a Form I-200 (warrant of arrest) or Form I-205 (warrant of
6 removal/deportation), many entries list “N/A” in the form columns. As such, the court cannot
7 discern whether the CCDC released a person at the conclusion of his or her criminal case or held
8 that person after a release date as a result of the ICE hold. Therefore, it is impossible to determine
9 if the CCDC unlawfully detained any of the individuals as the ACLU asserts.

10 The ACLU also specifically identified two defendants it alleges the CCDC unlawfully
11 detained as a result of an ICE hold, despite a court order for release from custody. In *State v. Ortiz*,
12 case number 19-F-08292X, the ACLU contends that the CCDC continued to detain Ortiz on an
13 ICE warrant even after a Justice of the Peace ordered the defendant released from custody.
14 *Supplemental Brief*, p. 7. In *State v. Fedorov*, case number C-25-388634-1, the ACLU asserts that
15 the defendant could not participate in the Adult Drug Court program as a result of his ICE hold.
16 *Reply to Supplemental Briefing*, p. 5. However, the ACLU also failed to provide any supporting
17 documentation related to these two specific cases for this court to review.

18 Under the second factor, the court must find, “that the question presented is likely to arise
19 in the future with respect to the complaining party or individuals who are similarly situated to the
20 complainant.” *Valdez-Jimenez v. Eighth Judicial Dist. Court*, 136 Nev. 155, 160, 460 P.3d 976,
21 983 (2020). In *Valdez-Jimenez*, the petitioners provided the Court with documents from other
22 criminal cases where defendants also challenged the constitutionality of Nevada’s bail process. *Id.*
23 The *Johnston* Court also applied the exception to the mootness doctrine and found that the moot
24 issue was capable of repetition, yet evading review. In that case, the petitioner provided the court
25 with examples of three criminal cases where defendants raised similar arguments and alleged a
26 violation of due process. *Johnston v. Eighth Judicial Dist. Court*, 138 Nev. 700, 518 P.3d 94
27 (2022). The petitioner asserted that he was detained in violation of due process two times in the
28 same case and then a third time at the time of oral argument on the matter. *Id.* at n.2.

1 While the court recognizes that immigration detainers have previously and will likely
2 continue to affect criminal defendants, the ACLU has not provided sufficient documentation in
3 this case to show that other defendants have been unlawfully detained pursuant to an ICE hold
4 beyond what was required to satisfy their criminal charges in Nevada. It would be speculative for
5 this court to conclude that the people listed in the excel spreadsheet were unlawfully detained
6 beyond the conclusion of their criminal case pursuant to an immigration hold as it is not supported
7 by the evidence presented. As such, Petitioners have failed to provide sufficient support to
8 establish that these issues are likely to arise in the future and therefore fail to satisfy the second
9 factor.

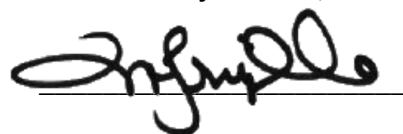
10 With respect to the third factor, there is no doubt that the issues raised in this Petition are
11 important. Immigration and detention issues affect many criminal defendants on a daily basis and
12 can absolutely have profound constitutional implications. As such, Petitioners satisfy the third
13 factor.

14 Based on the foregoing, the court finds that Morais-Hechavarria lacks standing to pursue
15 any of the claims listed in the petition. The court further finds that while the ACLU has standing
16 to pursue claims one, three and four, the issues asserted in the petition are moot and no exception
17 to the mootness doctrine applies.

18
19 **ORDER**

20 Therefore, COURT ORDERED, the Petition for Writ of Mandamus Or, in the Alternative,
21 Verified Petition for Writ of Habeas Corpus is hereby DENIED.

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23 Dated this 6th day of March, 2026

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26 **9D4 9F3 A150 3540**
27 **Monica Trujillo**
28 **District Court Judge**

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

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5
6 Sergio Morais-Hechavarria,
Plaintiff(s)

CASE NO: A-25-930343-W

7 vs.

DEPT. NO. Department 3

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9 Las Vegas Metropolitan Police
Department, Defendant(s)

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11 **AUTOMATED CERTIFICATE OF SERVICE**

12
13 This automated certificate of service was generated by the Eighth Judicial District
14 Court. The foregoing Decision and Order was served via the court's electronic eFile system
to all recipients registered for e-Service on the above entitled case as listed below:

15 Service Date: 3/6/2026

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25
26 If indicated below, a copy of the above mentioned filings were also served by mail
27 via United States Postal Service, postage prepaid, to the parties listed below at their last
28 known addresses on 3/9/2026

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