UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

Edicson David QUINTERO CHACÓN, *Petitioner*, v. Kristi NOEM, Secretary, U.S. Department of Homeland Security,[1] *et al.*, *Respondents.*	Civil Action No. 4:25-cv-50-CDL-AGH

PETITIONER'S BRIEF IN OPPOSITION TO RESPONDENTS' MOTION TO DISMISS OR STAY PROCEEDINGS

[1] Because Respondent Dickerson is no longer Mr. Quintero's immediate custodian, Petitioner respectfully requests that this Court modify the order in which Respondents' names are listed in the case caption, listing Respondent Noem first. He does not seek to add or remove any Respondents from those named in his Amended Petition, Dkt. 24, only to change the order.

INTRODUCTION

In an interview this week, El Salvador's Vice President Félix Ulloa described El Salvador's imprisonment of migrants sent from the United States as a "service" El Salvador offers the international community, akin to medical, tourism, and technological services. Ex. 1 at 13. Vice President Ulloa went on to say, "The status of the inmates or the person arriving isn't determined by El Salvador; it is determined by the state that requests the service." *Id.* Respondents, on behalf of the United States, have requested and are paying El Salvador for the "service" of confining Petitioner Edicson David Quintero Chacón ("Mr. Quintero") at the Centro de Confinamiento del Terrorismo, the Terrorism Confinement Center ("CECOT"), just as Respondents did when they paid CoreCivic for the "service" of detaining Mr. Quintero at Stewart Detention Center. The prison operator has changed, but Mr. Quintero's legal custodians remain the same.

For the reasons set forth below and in any subsequent supplement, the Court should deny Respondents' Motion to Dismiss the Amended Petition, Dkt. 27 ("MTD"). The Court had jurisdiction over Mr. Quintero's original habeas petition and continues to have jurisdiction over his petition now. Mr. Quintero's habeas claims are live and redressable because Respondents are Mr. Quintero's legal custodians with the ability to determine his status, as high-ranking Salvadoran officials have confirmed. And there are no statutory bars to Mr. Quintero's claims. The Court should also deny Respondents' alternative motion to stay these habeas proceedings because the *D.V.D. v. U.S. Department of Homeland Security* class action seeks fundamentally different relief based on different legal theories than Mr. Quintero's Amended Petition.[2]

[2] There is a pending habeas class action challenging the detention of people sent to CECOT pursuant to the Alien Enemies Act. That court is currently addressing the question of whether proposed class members are in the constructive custody of the United States and found jurisdictional discovery to be warranted. *See J.G.G. v. Trump*, No. 1:25-cv-766 (D.D.C. May 8, 2025), ECF No. 116. Based on Respondents' representation that Mr. Quintero was not sent to El Salvador pursuant to the Alien Enemies Act, Dkt. 10-1

FACTUAL AND PROCEDURAL BACKGROUND

Mr. Quintero is a native and citizen of Venezuela. Dkt. 24 ("Am. Pet.") ¶ 29. On or about June 13, 2024, ICE took Mr. Quintero into custody during a routine ICE check-in. *Id.* ¶ 35. On September 11, 2024, an Immigration Judge ordered Mr. Quintero removed to Venezuela. *Id.* ¶ 37. On February 10, 2025, still detained with no prospect of removal to Venezuela that he knew of, Mr. Quintero filed a *pro se* habeas petition challenging his indefinite detention. Dkt. 1. On March 15, 2025, Respondents transported Mr. Quintero, along with approximately 260 other people, mostly from Venezuela, on three separate flights to CECOT in El Salvador. Am. Pet. ¶ 44; Dkt. 10-1 ¶ 8. Respondents assert they sent Mr. Quintero to CECOT pursuant to the usual removal statute for people with final removal orders, 8 U.S.C. § 1231. Dkt. 10-1 ¶¶ 7–8. Mr. Quintero remains detained, incommunicado, at CECOT. Am. Pet. ¶ 1. Human Rights Watch, which investigates human rights abuses globally, "is not aware of any detainees who have been released from that prison." *Id.* ¶ 8.

Mr. Quintero is detained at CECOT at Respondents' behest. Respondents negotiated an arrangement with the government of El Salvador for the detention of non-U.S. citizens sent from the United States to Salvadoran prisons. Am. Pet. ¶¶ 26, 27, 51 54–57. The U.S. government paid or is paying the Salvadoran government approximately $6 million dollars to detain individuals, including Mr. Quintero, at CECOT for a renewable one-year term. *Id.* ¶¶ 9, 56, 67. Respondents have touted this agreement as a money-saver for the United States because it will allegedly be cheaper than detention in the United States. *Id.* ¶¶ 9, 55. Respondents retain authority to determine the "long term disposition" of Mr. Quintero and the other individuals they sent to CECOT. *Id.* ¶¶ 9, 57. Respondents have access to and have visited CECOT, and have a direct line of communication

¶¶ 7–8, undersigned counsel knows of no class habeas proceedings that would include Mr. Quintero as a class member.

with El Salvador's president, Nayib Bukele. *Id.* ¶¶ 64–66.

At the time Mr. Quintero filed his *pro se* habeas petition, the United States had not removed Venezuelans to Venezuela for over a year. *Id.* ¶¶ 39, 77. However, removals to Venezuela resumed in February 2025, just days after Mr. Quintero filed his habeas petition. *Id.* ¶¶ 77, 79. More removals to Venezuela occurred in March 2025. *Id.* ¶ 80. In fact, removal flights to Venezuela were scheduled for March 16, but were canceled *after* the March 15 flights to CECOT, "out of concern that Venezuela's plane could be seized under the authority of the Alien Enemies Act." *Compare* Ex. 2 at 7–8, 12, *with* Dkt. 10-1 ¶ 7 (declaring that "on March 15, 2025, Venezuela was not willing to accept its nationals for repatriation."). The United States is currently removing Venezuelans to Venezuela. *See* Am. Pet. ¶ 82; Ex. 2 at 12.

Mr. Quintero filed his amended habeas petition on April 16, 2025. Am. Pet.; *see* Dkt. 22. Respondents[3] moved to dismiss the petition or, alternatively, stay these proceedings on May 2, 2025. MTD.

ARGUMENT

I. Legal Standard

Respondents set forth the correct legal standards under Federal Rules of Civil Procedure 12(b)((1) and (6). *See* MTD at 5–6. Respondents primarily raise jurisdictional challenges to the Amended Petition under Rule 12(b)(1); they argue mootness, and although Respondents mischaracterize the relief Mr. Quintero seeks, they also make a redressability argument without calling it that. MTD at 11–16. A case is moot when there is no live controversy in which a court

[3] Mr. Quintero does not contend that his "former warden holds the present power to produce Petitioner to this Court." MTD at 13. That is why Mr. Quintero has named Respondents Trump, Rubio, Bondi, Noem, Lyons, and Genalo in their official capacities and alleged they have the legal authority to effectuate his release. *See* Am. Pet. ¶¶ 9, 22–27, 55–57, 65–67. Respondents fail to acknowledge that in their Motion to Dismiss. *See* MTD at 2 n.1, 13.

can provide meaningful relief. *Al Najjar v. Ashcroft*, 273 F.3d 1330, 1335–36 (11th Cir. 2001). Redressability is satisfied when the court order sought would result in "a significant increase in the likelihood" that the petitioner's injury will be redressed. *Harrell v. The Fla. Bar*, 608 F.3d 1241, 1260 n.7 (11th Cir. 2010) (quoting *Utah v. Evans*, 536 U.S. 452, 464 (2002)). Respondents' arguments are largely facial, asserting that the facts alleged do not demonstrate constructive custody, that the Court lacks power to order the relief sought, and that Mr. Quintero's claims are jurisdictionally barred by statute. Respondents also suggest, without providing evidence, that as a matter of fact, Mr. Quintero is not in Respondents' custody and Respondents cannot facilitate and effectuate his release from CECOT. Mr. Quintero seeks jurisdictional discovery and reserves the right to supplement this opposition with evidence obtained through discovery. *See* Dkt. 28.

II. The INA Does Not Bar This Court's Review of Mr. Quintero's Habeas Petition Challenging His Unlawful Detention.

Respondents argue that three of the INA's jurisdiction-stripping and channeling provisions—8 U.S.C. § 1252(a)(5), (b)(9), and (g)[4]—preclude judicial review of Mr. Quintero's habeas petition. MTD at 7–11. These arguments fail for one simple reason: Mr. Quintero does not challenge his removability, removal order, or removal in this habeas petition; he challenges his unlawful detention "under or by color of the authority of the United States." 28 U.S.C. § 2241. *See* Am. Pet. ¶¶ 113–36. The primary form of relief he seeks is the quintessential habeas remedy: release from government custody. *See id.* ¶ 16, p. 33. His claims thus fall outside the "narrow scope" of the INA's jurisdictional bars. *Canal A Media Holding, LLC v. U.S. Citizenship & Immigr.*

[4] Sections 1252(a)(5) and (b)(9) work together to channel judicial review of removal orders and all legal and factual questions "arising from any action taken or proceeding brought to remove [a noncitizen] from the United States" under the INA through the petition for review process in the appropriate court of appeals. 8 U.S.C. § 1252(a)(5), (b)(9). Section 1252(g) bars judicial review of any claim "arising from the decision or action by [DHS] to commence proceedings, adjudicate cases, or execute removal orders" except as provided under Section 1252. *Id.* § 1252(g).

Servs., 964 F.3d 1250, 1257 (11th Cir. 2020) (cleaned up) (referring to § 1252(b)(9)); *see also Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482, 487 (1999) [hereinafter *AADC*] (adopting a "narrow reading" of § 1252(g) and confirming that it "applies only to three discrete actions" as opposed to "all claims arising from deportation proceedings"); *D.V.D. v. U.S. DHS*, 2025 WL 1142968, at *5–11 (D. Mass. Apr. 18, 2025) (detailed analysis of § 1252(b)(9) and (g)). Binding Supreme Court and Eleventh Circuit precedent, and the plain language of the statute, dictate the outcome here: the INA does not strip jurisdiction to review Mr. Quintero's detention.

To begin with, Respondents' claim that the INA's zipper clause, § 1252(b)(9), bars jurisdiction, MTD at 10–11, is foreclosed by the Supreme Court decision in *Jennings v. Rodriguez*, 583 U.S. 281, 294–95 (2018) (holding that "§ 1252(b)(9) does not present a jurisdictional bar" to challenges brought by detained noncitizens to prolonged detention without bond during removal proceedings). The *Jennings* Court rejected an "extreme" and "expansive interpretation" of the term "arising from" in § 1252(b)(9) that "would lead to staggering results" and "make claims of prolonged detention effectively unreviewable." *Id.* at 293; *see also id.* at 294 (looking to *AADC*'s narrow interpretation of § 1252(g), which contains the same "arising from" language, in reaching this conclusion). Under *Jennings*, Mr. Quintero's habeas claims are not barred by § 1252(b)(9).

Moreover, the Eleventh Circuit has held that none of the three INA jurisdictional provisions Respondents invoke apply to federal-court challenges to immigration detention. *See Alvarez v. U.S. Immigr. & Customs Enf't*, 818 F.3d 1194, 1201–05 (11th Cir. 2016) (holding that § 1252(g) did not bar review of plaintiff's *Bivens* claim that immigration officials unconstitutionally prolonged his post-order detention, and explaining that § 1252(g) applies to the agency's "discretionary decisions" as to the "three discrete actions" listed in the statute); *Madu v. U.S. Att'y Gen.*, 470 F.3d 1362 (11th Cir. 2006) (holding that § 1252(a)(5) and (b)(9) did not bar habeas challenge to

detention and impending removal where petitioner contended he was not subject to a final order of removal); *cf. Romero v. Sec'y, U.S. Dep't of Homeland Sec.*, 20 F.4th 1374, 1380 (11th Cir. 2021) (relying on *Madu* to hold that "§ 1252(a)(5) did not deprive the district court of jurisdiction" over habeas petition filed by petitioner subject to order of supervision based on allegedly invalid removal order).

Similarly, binding precedent instructs that other types of claims that are "independent of or collateral to the removal process" or bear only a "tangential relationship" to removal proceedings can be heard in district court. *Canal A*, 964 F.3d at 1257 (quoting *J.E.F.M. v. Lynch*, 837 F.3d 1026, 1032 (9th Cir. 2016));[5] *see Dep't of Homeland Sec. v. Regents of the Univ. of California*, 591 U.S. 1, 19 (2020) (holding that neither § 1252(b)(9) nor § 1252(g) bars review of challenge to rescission of DACA program). These cases—several of which are cited by Respondents—further support this Court's jurisdiction over Mr. Quintero's claims.

Respondents cite various cases involving unsuccessful attempts to challenge the validity or execution of a removal order, or other actions or decisions that are inextricably bound up with removal proceedings. *See* MTD at 8–9, 11. Those cases are distinct from the instant petition, which challenges Mr. Quintero's unlawful *detention*. In *Camarena v. Director, Immigration and Customs Enforcement*, for example, the Eleventh Circuit rejected two petitioners' attempts to invoke the court's habeas jurisdiction to prevent their removal pursuant to valid final orders of removal, holding that "their claims fall squarely within § 1252(g)'s jurisdictional bar." 988 F.3d 1268, 1272 (11th Cir. 2021). Other cases cited by Respondents are similarly inapposite as they involve

[5] While Respondents cite *J.E.F.M.* to support their contention that § 1252(a)(5) and (b)(9) strip district courts of jurisdiction to hear claims like Mr. Quintero's, *see* MTD at 10–11, the Ninth Circuit in that case expressly distinguished its holding, which concerned the proper vehicle to raise right-to-counsel claims brought by minors in removal proceedings, from habeas claims challenging immigration detention, over which district courts clearly possess jurisdiction. *See* 837 F.3d at 1032 (citing *Nadarajah v. Gonzales*, 443 F.3d 1069, 1075–76 (9th Cir. 2006)).

challenges to removal, not custody. *See Silva v. United States,* 866 F.3d 938, 939, 942 (8th Cir. 2017) (holding, in a split decision, that § 1252(g) barred a suit for damages under the Federal Tort Claims Act and *Bivens* arising from the plaintiff's wrongful deportation in violation of an administrative stay because his claims "arise from a decision to execute a removal order"); *Singh v. Napolitano*, 500 F. App'x 50, 52 (2d Cir. 2012)[6] (concluding district court lacked jurisdiction over habeas petition challenging the rescission of the petitioner's asylum grant because it constituted an "effective[] challenge [to] the validity and execution of his removal order"); *H.T. v. Warden, Stewart Det. Ctr.*, No. 4:20-CV-146, 2020 WL 12656230, at *5 (M.D. Ga. Dec. 29, 2020) (concluding that § 1252(g) barred challenge to removal raised by a petitioner who had already been removed and was no longer in custody), *report & recommendation adopted*, 2021 WL 5444776 (M.D. Ga. Feb. 23, 2021); *Alomaisi v. Decker* No. 20-cv-5059 (VSB) (SLC), 2021 WL 611047, at *7–8 (S.D.N.Y. Jan. 27, 2021) (similar), *report & recommendation adopted, Alomaisi v. Mayorkas*, 2021 WL 3774117 (S.D.N.Y. Aug. 25, 2021); *Yearwood v. Barr*, 391 F. Supp. 3d 255, 260, 262–63 (S.D.N.Y. 2019) (finding challenge to manner of removal barred). None of these cases involved core habeas challenges to unlawful detention.

Two of the Eleventh Circuit opinions that Respondents cite in fact *directly support* this Court's jurisdiction over habeas claims seeking to remedy unlawful detention like those raised in Mr. Quintero's petition. *See* MTD at 11. In *Linares*, the Eleventh Circuit upheld the dismissal of one claim that was clearly barred by § 1252(a)(5) and (b)(9), but it vacated the district court's

[6] By contrast, the Second Circuit held in a precedential opinion issued earlier this week that § 1252(a)(5), (b)(9), and (g) do not bar habeas review of a detained student's challenge to her unlawful detention by immigration authorities. *Ozturk v. Hyde*, No. 25-1019, --- F.4th ---, 2025 WL 1318154, at *10, 13 (2d Cir. May 7, 2025). The court explained that the petitioner's "claims do not themselves challenge 'removal proceedings' and thus § 1252(b)(9)'s 'channeling function has no role to play.'" *Id.* at *11 (quoting *Canal A*, 964 F.3d at 1257); *see also id.* at *8 (rejecting government's similar attempt to "dramatically overstate[] the reach of § 1252(g)"). The same reasoning applies to Mr. Quintero's petition.

dismissal of a "second, distinct claim" under § 2241 challenging the petitioner's continued detention in violation of the INA and the Due Process Clause. *Linares v. Dep't of Homeland Sec.*, 529 F. App'x 983, 984–85 (11th Cir. 2013) (per curiam) (citing *Madu*, 470 F.3d at 1363, 1368) (remanding to district court to determine whether petitioner was entitled to relief under *Zadvydas v. Davis*, 533 U.S. 678 (2001)). Similarly, in *Themeus*, the Eleventh Circuit affirmed dismissal of a habeas petition "to the extent it challenged the underlying basis of [the petitioner's] removal order," but reached the merits of the petitioner's *Zadvydas* claim challenging an immigration detainer lodged against him while in state criminal custody. *See Themeus v. U.S. Dep't of Just.*, 643 F. App'x 830, 832–33 (11th Cir. 2016) (per curiam). Based on the unmistakable distinction drawn in these and other cases between challenges to removal and other types of challenges—including, paradigmatically, habeas challenges seeking release from unlawful government custody—this Court should reject Respondents' unsupported contention that the INA bars judicial review here. As the Second Circuit recently noted: "This distinction makes practical sense. While challenges to ***removal*** can be heard in a petition for review after [agency proceedings], the same is not true of constitutional challenges to ***detention*** like the ones raised by [petitioner]." *Ozturk*, 2025 WL 1318154, at *12 (emphases in original).

Tellingly, Respondents do not marshal a single authority to support their argument that the INA strips district courts of habeas jurisdiction over challenges to unlawful executive detention. Instead, they attempt to recast Mr. Quintero's petition as "challeng[ing] [his] removal to El Salvador rather than Venezuela," MTD at 7, or presenting "an impermissible challenge to his final removal order," *id.* at 10. It is true that, in addition to seeking release from custody, Mr. Quintero seeks a writ ordering Respondents to facilitate and effectuate his return to the United States or removal to Venezuela. Am. Pet. at 33. But, as explained below, Mr. Quintero simply seeks any

relief the Court may fashion that will give full effect to the central habeas remedy—release. *See* Part III.C.

Accordingly, 8 U.S.C. § 1252(a)(5), (b)(9), and (g) do not deprive this Court of jurisdiction over Mr. Quintero's challenge to his ongoing detention in CECOT in Respondents' custody.

III. This Court Retains Article III Jurisdiction.

A. Habeas Jurisdiction Vested at the Time Mr. Quintero Filed His *Pro Se* Habeas Petition and Continues Despite His Transfer.

Respondents cite the general principle that noncitizens "who have already been removed prior to filing habeas petitions do not satisfy the 'in custody' requirement" for habeas jurisdiction. MTD at 12. But Mr. Quintero was not removed prior to filing; he was detained in this District at Stewart Detention Center when he filed his original habeas petition.[7] Dkt. 1. He sued his immediate custodian at the time, the Warden of Stewart. This Court was thus the proper venue for his original habeas petition. *See Rumsfeld v. Padilla*, 542 U.S. 426, 435 (2004) (stating that a habeas corpus petition challenging current custody generally must be filed in the district of confinement). Mr. Quintero has since amended his petition to add additional Respondents who are his legal custodians, *see infra* Part III.B., and over whom this Court has personal jurisdiction.[8] And because respondents cannot defeat habeas jurisdiction by transferring a petitioner out of the district, this Court retains jurisdiction and "may direct the writ to any respondent within its jurisdiction

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[7] Contrary to Respondents' arguments, because Mr. Quintero is still "in custody," *see infra* Part III.B., he could also file a new habeas petition now, and the proper venue would most likely be the District of D.C. *See Abu Ali v. Ashcroft*, 350 F. Supp. 2d 28, 44 (D.D.C. 2004).

[8] Respondents incorrectly state that *Padilla* holds that "a custodian with the power to produce Petitioner must be *physically within the jurisdiction of this Court* for it to exercise jurisdiction in habeas." MTD at 13 (citing *Padilla*, 542 U.S. at 435) (emphasis added). *Padilla* requires that the Court have personal jurisdiction over Respondents; here, the Court has personal jurisdiction over Respondents because they submitted to the Court's jurisdiction in this case and because they can be reached by service of process. *Braden v. 30th Jud. Cir. Ct. of Ky.*, 410 U.S. 484, 495 (1973); Fed. R. Civ. P. 4(i); *see also, e.g.*, Resps. Ltr., *Khalil v. Trump*, No. 2:25-cv-01963 (D.N.J. Mar. 28, 2025), ECF No. 140 (conceding that DHS Secretary Noem is within the District of New Jersey's jurisdiction).

who has legal authority to effectuate [Mr. Quintero's] release." *Padilla*, 542 U.S. at 441 (citing *Ex Parte Endo*, 323 U.S. 283 (1944)); *see also Ibarra v. Warden, Stewart Detention Ctr.*, No. 4:18-CV-167-CDL-MSH, 2018 WL 8370330, at *1 (M.D. Ga. Dec. 12, 2018).

B. Mr. Quintero Is in Respondents' Constructive Custody.

Mr. Quintero is subject to "indefinite detention in a foreign jail hired by the United States." *G.F.F. v. Trump*, --- F. Supp. 3d ---, 2025 WL 1301052, at *4 (S.D.N.Y. May 6, 2025). "[T]he United States exerts control over each of the . . . migrants sent to CECOT. The Defendants detained them, transported them by plane, and paid for their placement in the mega-jail until 'the United States' decides 'their long-term disposition.'" *Abrego Garcia v. Noem*, --- F. Supp. 3d ----, 2025 WL 1014261, at *5 (D. Md. Apr. 6, 2025), *denying stay pending appeal*, No. 25-1345, 2025 WL 1021113, at *4 (4th Cir. Apr. 7, 2025) (Thacker, J., concurring) (concluding that district court properly determined that the U.S. government has power over people detained at CECOT), *denying in part application to vacate*, 145 S. Ct. 1017 (2025) (per curiam). As is true whenever the United States outsources custody operations to a contractor or agent, habeas is available here because, legally, Mr. Quintero remains in U.S. custody.

The statutory writ of habeas corpus extends to cases where a person[9] is "in custody under or by color of the authority of the United States," or "in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241(c)(1), (3). "The writ of habeas corpus is the fundamental instrument for safeguarding individual freedom against arbitrary and lawless state action." *Harris v. Nelson*, 394 U.S. 286, 290 (1969). Habeas is a broad and flexible remedy with the "capacity to reach all manner of illegal detention" and the "ability to cut through barriers of form and procedural mazes." *Id.* at 291. In keeping with the writ's broad scope, the concept of

[9] "[T]here is little reason to think that Congress intended the geographical coverage of the statute to vary depending on the detainee's citizenship." *Rasul v. Bush*, 542 U.S. 466, 481 (2004).

"custody" under § 2241 is construed "very liberally." *Howard v. Warden*, 776 F.3d 772, 775 (11th Cir. 2015). Even if a person is not in "actual, physical custody," they are in custody for purposes of habeas when there is a "significant restraint on their liberty that is not shared by the general public." *Id.* (citing *Jones v. Cunningham*, 371 U.S. 236, 239–43 (1963)).

Custody that occurs outside the United States is not *per se* immune from habeas review under § 2241. *See, e.g., Munaf v. Geren*, 553 U.S. 674, 680 (2008); *Rasul*, 542 U.S. at 480–83; *Braden v. 30th Jud. Cir. Ct. of Ky.*, 410 U.S. 484, 498 (1973) (collecting cases). Indeed, courts have entertained habeas petitions when a U.S. official is one of the physical custodians, albeit outside the United States—as was the case in *Munaf*, *see* 553 U.S. at 679 (petitioner was in custody of "an international coalition force operating in Iraq composed of 26 different nations, including the United States")—and also when a foreign sovereign is the physical custodian of a person detained by color of U.S. authority. *See Abu Ali*, 350 F. Supp. 2d at 30–31. Most importantly for this case, "the United States may not avoid the habeas jurisdiction of the federal courts by enlisting a foreign ally as an intermediary" to act as jailer. *Id.* at 41; *cf. Abrego Garcia v. Noem*, 2025 WL 1135112, at *1 (4th Cir. Apr. 17, 2025) (Wilkinson, J.) (rejecting position that government may "stash [people] away" in "foreign prisons" and then "claim[] . . . that because it has rid itself of custody . . . there is nothing that can be done" for people it has sent to CECOT).

The writ also plainly extends to cases where the immediate physical custodian is not a federal official, such as when a state or private contractor provides detention services as respondents' agent. *See Abu Ali*, 350 F. Supp. 2d at 47–79 (collecting cases). For example, Mr. Quintero's original petition named the warden of Stewart—a facility owned and operated by CoreCivic, Inc. and under contract with ICE—as respondent. The United States, as legal custodian, stepped in to answer for Mr. Quintero's detention, "because [Respondent Dickerson] was detaining

the Petitioner at the request of the United States." Dkt. 10 at 1 n.1; *see also Adu v. Bickham*, No. 7:18-cv-103, 2018 WL 6495068, at *4 (M.D. Ga. Dec. 10, 2018) ("The warden of the facility where Petitioner is detained would be unable to carry out the Court's instructions [to release Petition from custody] without more senior [federal] officials taking certain actions."), *report & recommendation adopted*, (M.D. Ga. Feb. 15, 2019), ECF No. 69. A habeas petitioner's custody need only be "the result of the respondent's action from which he seeks habeas corpus relief," including situations where an "imprisoning sovereign is the respondent's agent." *Steinberg v. Police Ct. of Albany*, 610 F.2d 449, 453 (6th Cir. 1979) (citing *Brown v. Wainwright*, 447 F.2d 980 (5th Cir. 1971) and *Braden*, 410 U.S. at 498–99).

Under these established principles, which another district court distilled just yesterday, *see J.G.G. v. Trump*, No. 1:25-cv-766 (D.D.C. May 8, 2025), ECF No. 116, the facts set forth in the Amended Petition, and to be proven after jurisdictional discovery, establish that Mr. Quintero is being held under or by color of U.S. authority. Respondents negotiated with El Salvador to offshore part of the U.S. immigration detention system in exchange for payment. Am. Pet. ¶¶ 54–56, 62, 64–67. Pursuant to that arrangement, and not any basis under domestic Salvadoran law,[10] Respondents transferred Mr. Quintero from the United States to El Salvador, where he was taken to CECOT. *Id.* ¶¶ 44, 48, 58. The U.S. government will decide "long-term disposition" of Mr. Quintero's custody. *Id.* ¶ 57.

In short, Mr. Quintero alleges that Respondents have "enlist[ed] a foreign ally as an intermediary" to detain him indefinitely, and therefore there is jurisdiction to review that detention.

[10] Since Mr. Quintero amended his petition, it has become even clearer that El Salvador is "indifferent to" the detention of the individuals the United States sent to CECOT, which weighs in favor of jurisdiction in this Court. *Abu Ali*, 350 F. Supp. 2d at 68. *See* Ex. 1 at 13 (El Salvador's Vice President, referring to the people the United States sent to CECOT, explaining: "The status of the inmates or the person arriving isn't determined by El Salvador; it is determined by the state that requests the service.").

Abu Ali, 350 F. Supp. 2d at 41, 67–68 (ordering jurisdictional discovery where petitioner, who was physically held in Saudi custody, alleged the United States initiated his arrest, was controlling events in Saudi Arabia, and was keeping him there to avoid constitutional scrutiny by U.S. courts, and that he would be released by Saudi officials upon request by the U.S. government); *see also Idema v. Rice*, 478 F. Supp. 2d 47, 52–53 (D.D.C. 2007) (ordering the government to respond to habeas petition alleging petitioner was in Afghanistan's physical custody after "United States officials ordered [his] arrest, ordered [his] torture, stole exculpatory evidence during [his] trial and appeal, exerted undue influence over Afghan judges, and either directly or indirectly ordered judges who found [him] innocent not to release [him] from prison"). The fact that Mr. Quintero is "being held indefinitely, and without benefit of any legal proceeding," further weighs in favor of habeas review. *See Rasul*, 542 U.S. at 487–88 (Kennedy, J., concurring); Am. Pet. ¶ 8 (detention at CECOT is potentially permanent).

All the information before the Court supports the conclusion that Mr. Quintero, despite being in El Salvador, remains imprisoned at Respondents' behest. Respondents do not grapple with the facts alleged, including that their own public statements, *see* Am. Pet. ¶¶ 55, 64–66, demonstrate their responsibility for Mr. Quintero's continuing post-removal detention. Similarly, Respondents' argument that Mr. Quintero is not in their custody simply because he has been removed from the United States, MTD at 12–13, ignores Mr. Quintero's specific allegations and arguments. *See, e.g.*, Am. Pet. ¶ 13 (alleging that Respondents are "orchestrating and paying for his custody" in El Salvador); ¶¶ 51, 114, 118 (similar); ¶¶ 54–67 (describing Respondents' arrangement with El Salvador); ¶¶ 93–98 (describing in detail the legal standard for "custody" under § 2241). Respondents cite run-of-the-mill cases where, unlike here, the U.S. government deported a person *and then let them go. See Soliman v. U.S. ex rel. INS*, 296 F.3d 1237, 1243 &

n.2 (11th Cir. 2002); *H.T.*, 2020 WL 12656230, at *6. Here, in contrast, Mr. Quintero presents an urgently live controversy; absent a court order, he faces lawless imprisonment, possibly for life.

C. This Court Can Order Respondents to Provide Meaningful Relief.

"[H]abeas corpus is, at its core, an equitable remedy," *Schlup v. Delo*, 513 U.S. 298, 319 (1995), and courts have "broad discretion in conditioning a judgment granting habeas relief," *Hilton v. Braunskill*, 481 U.S. 770, 775 (1987). The Great Writ "is not now and never has been a static, narrow, formalistic remedy; its scope has grown to achieve its grand purpose—the protection of individuals against erosion of their right to be free from wrongful restraints upon their [liberty]." *Jones*, 371 U.S. at 243. Accordingly, this Court can and should exercise its power to provide Mr. Quintero with the relief sought—namely, an order requiring Respondents to release him from the notorious CECOT prison in El Salvador, where he is being held at Respondents' behest, and facilitate his return either to the United States or Venezuela. Such relief is appropriate and proportional in light of the extraordinary circumstances of this case, which are entirely of Respondents' own making.

First, Respondents mischaracterize the relief sought. MTD at 16. Mr. Quintero seeks an order directed at Respondents—not foreign sovereign nations—who have power over Mr. Quintero's detention. *See* Am. Pet. at 33 (requesting that the Court order "*Respondents* to immediately release Mr. Quintero from their custody and facilitate and effectuate his prompt return and release into the United States or facilitate and effectuate his prompt removal and release to Venezuela" (emphasis added)).[11] As the ultimate authority over Mr. Quintero's detention, *see id.* ¶¶ 54–56, 62, 64–67, Respondents may secure his release, rendering his harm redressable.

The Supreme Court's recent affirmance of an order to facilitate the return of Kilmar Abrego

[11] The Prayer for Relief provides for various options to allow for flexibility in how to accomplish Mr. Quintero's goal of release from detention.

Garcia, another person the U.S. sent to CECOT, is all this Court needs to conclude Respondents have sufficient power over Mr. Quintero to provide meaningful relief, and that federal courts may order Respondents to use that power. *Abrego Garcia*, 145 S. Ct. at 1018; *see supra* Part III.B.; *Abrego Garcia*, 2025 WL 1021113, at *4 (Thacker, J., concurring) (finding "Abrego Garcia is a detainee of the [U.S.] Government, who is being housed temporarily in El Salvador, 'pending the United States' decision on [his] long term disposition,' and that therefore "the district court's order does not require the United States to demand anything of a foreign sovereign").

Respondents provide no evidence of *inability* to release Mr. Quintero or facilitate his return. Respondent Trump recently confirmed such action is within his power. When an interviewer said, "You could get [Mr. Abrego Garcia] back [from El Salvador]. There's a phone on this desk," Respondent Trump responded, "I could."[12] The interviewer pressed: "The power of the presidency, you could call up the president of El Salvador and say, 'Send him back right now.'" Respondent Trump confirmed: "And if he were the gentleman that you say he is, I would do that."[13]

The mere fact that Mr. Quintero is detained in another country does not render the Court unable to redress his unlawful detention. The Court's habeas jurisdiction extends beyond its borders when custody itself is extraterritorial. *See, e.g.*, *Padilla*, 542 U.S. at 447, n.16; *Abu Ali*, 350 F. Supp. 2d at 40–41. The necessary corollary is that relief may include an order directing action by U.S. government custodians with extraterritorial effects. The broad and flexible nature of the writ affords any relief necessary to "dispose of the matter as law and justice require." 28 U.S.C. § 2243. Mr. Quintero seeks any relief the Court deems reasonable and appropriate to secure his freedom, including his release, followed by transport to the United States (possibly as an

[12] Fritz Farrow, *Trump says 'I could' get Abrego Garcia back from El Salvador*, ABC News (Apr. 29, 2025), https://perma.cc/57A9-6AQY.
[13] *Id.*

interim step on the path to release) or to Venezuela.

Neither option is too "speculative." Venezuela is currently accepting U.S. deportations. Am. Pet. ¶ 82. As for return to the United States, the Government "can—and does—return wrongfully removed migrants as a matter of course." *Abrego Garcia*, 2025 WL 1021113, at *4 (Thacker, J. concurring) (citing *Nken v. Holder*, 556 U.S. 418, 435 (2009)); *see also Abrego Garcia,* 2025 WL 1113440, at *2 n.1 (D. Md. Apr. 15, 2025). Courts, far from powerless to redress Executive violations of law, routinely order such return. *See, e.g.*, Ex. 3, *Singh v. Att'y Gen.*, No. 15-10136 (11th Cir. July 2, 2015) (instructing DHS to locate petitioner and advise him of his right "to be returned to the United States"); *Nunez-Vasquez v. Barr*, 965 F.3d 272, 286 (4th Cir. 2020); *Arce v. United States*, 899 F.3d 796, 799 (9th Cir. 2018); *Orabi v. Atty' Gen.*, 738 F.3d 535, 543 (3d Cir. 2014); *Samirah v. Holder*, 627 F.3d 652, 665 (7th Cir. 2010) (commanding the Attorney General "take whatever steps are necessary to enable the plaintiff to reenter the United States"); *Umba v. Garland*, No. 19-9513, 2021 WL 3414104, at *10 n.2 (10th Cir. Aug. 5, 2021); *Hamama v. Adducci*, No. 2:17-cv-11910 (E.D. Mich. Jan. 15, 2019), ECF No. 513. In addition to Mr. Abrego Garcia, a court has already ordered the government "facilitate" the return of *another* individual sent to CECOT. *J.O.P. v. U.S. Dep't of Homeland Sec.*, --- F. Supp. 3d ---, 2025 WL 1180191, at *7 (D. Md. Apr. 23, 2025), *appeal docketed*, No. 25-1519 (4th Cir. May 7, 2025).

Second, the Executive's power in the realm of immigration and foreign affairs does not bar the relief sought. The Supreme Court's affirmance of the order to facilitate Mr. Abrego Garcia's return confirms no such bar exists and demonstrates confidence that federal courts can order relief necessary to protect the rights of those at CECOT while maintaining "due regard for the deference owed to the Executive Branch in the conduct of foreign affairs." *Abrego Garcia*, 145 S. Ct. at 1018.

Respondents' cases are inapposite, as they relate to the government's power over the

admission,[14] exclusion, and parole of noncitizens. MTD at 13–16 (citing, *e.g.*, *Nishimura Ekiu v. United States*, 142 U.S. 651 (1892) (relating to exclusion); *Kleindienst v. Mandel*, 408 U.S. 753 (1972) (same); *United States ex rel. Knauff v. Shaughnessy*, 338 U.S. 537 (1950) (same); *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103 (2020) (discussing admission and exclusion)). Contrary to Respondents' framing, Mr. Quintero does not request the unraveling of his removal order or an order granting admission/entry, parole, or any lawful status or presence in the United States. He does not seek to remain in the United States. Dkt. 1 at 3 (stating that he "just want[s] to go home"). He merely pleads for an end to his unlawful confinement. Thus, the relief sought does not implicate any "inherent" Executive power over the administration of immigration laws.

Respondents further misstate the scope of the Executive's power over immigration and foreign affairs, which does not include free license to exceed statutory limits and trample over individuals' constitutional rights. The Supreme Court has "long held that when the President takes official action, the Court has the authority to determine whether he has acted within the law." *Clinton v. Jones*, 520 U.S. 681, 703 (1997). Here, as in *Abrego Garcia*, it is "the province and duty of the judicial department to determine . . . whether the powers of any branch of the government . . . have been exercised in conformity to the Constitution; and if they have not, to treat their acts as null and void." 2025 WL 1021113, at *3 (Thacker, J., concurring) (quoting *Powell v. McCormack*, 395 U.S. 486, 506 (1969)). And a "court should not unnecessarily flinch from a justiciable controversy that it has 'a responsibility to decide' simply because the claim arises in the foreign-affairs context." *J.G.G.*, 2025 WL 890401, at *9 (quoting *Zivotofsky ex rel. Zivotofsky v. Clinton*, 566 U.S. 189, 194–95 (2012)). Nothing prevents the Court from meeting its obligation here.

[14] The term "entry," when used to connection with immigration matters, refers to the immigration law concept of "admission." *Trump v. Hawai'i*, 585 U.S. 667, 695 n.4 (2018); *Matter of Pierre*, 14 I.&N. Dec. 467, 468–69 (BIA 1973) (collecting cases using this definition of "entry" that predate the INA).

Ultimately, Respondents' handwringing over the Court's supposed inability to order negotiations between two countries, or direct foreign countries to act, misses the point entirely. As Mr. Quintero's custodians, Respondents have the authority release him. *Supra* Part III.B. As a factual matter, Respondents have not claimed, much less submitted evidence, otherwise. Once released from CECOT, Mr. Quintero may, at Respondents' discretion, be released into the U.S., *see* 8 U.S.C. § 1182(d)(5)(A), or removed to Venezuela pursuant to his removal order, *see* Dkt. 24-2, 8 U.S.C. § 1231(b)(2). Neither course implicates a judicial intrusion into matters solely under Executive control; rather, they would constitute the regular exercise of Respondents' authority. This Court has the authority to "administer" the writ "with the initiative and flexibility essential to ensure that miscarriages of justice within its reach are surfaced and corrected." *Harris*, 394 U.S. at 291. The Court can and should order Respondents to release Mr. Quintero from CECOT and facilitate and effectuate his return to the United States or removal to Venezuela.

IV. The *D.V.D.* Litigation Is Not a Proper Basis to Stay or Dismiss These Proceedings.

Respondents argue this Court should dismiss, or alternatively, stay Mr. Quintero's case pending resolution of *D.V.D. v. U.S. Department of Homeland Security*, No. 1:25-cv-10676 (D. Mass.). Neither is appropriate here: while the cases involve overlapping facts—namely, removal to third countries—the fundamental nature of the claims and the relief sought is different, and it is only through this petition that Mr. Quintero challenges his unlawful detention.

Courts have discretion to stay or dismiss a case "to avoid duplicating a proceeding already pending in another federal court." *I.A. Durbin, Inc. v. Jefferson Nat. Bank*, 793 F.2d 1541, 1551–52 (11th Cir. 1986). "The proponent of a stay bears the burden of establishing its need." *Clinton*, 520 U.S. at 708. Where "there is even a fair possibility" a stay "will work damage" to another, the moving party "must make out a clear case of hardship or inequity in being required to go forward." *Landis v. N. Am. Co.*, 299 U.S. 248, 255 (1936).

D.V.D. is a recently filed class action challenging DHS's policy or practice of removing individuals to third countries without adequate process. *See* Dkt. 27-2 at 1. The case raises Administrative Procedure Act and Fifth Amendment claims, and seeks, *inter alia*, to prohibit DHS from removing (or attempting to remove) individuals to a third country without a meaningful opportunity to present a fear-based claim as to that third country, as well as the "immediate[] return [of] class members who have been removed to a third country without written notice and a meaningful opportunity to apply for protection under the Convention Against Torture unless the class member confirms they do not wish to return." *Id.* at 36–37. While the cases have some overlap, only this case challenges Mr. Quintero's detention and provides a mechanism for his *release* from custody. *See Wilkinson v. Dotson*, 544 U.S. 74, 7 (2005) ("[H]abeas . . . is . . . the specific instrument to obtain release from [unlawful] confinement."). *D.V.D.* seeks the *transfer* of class members to the United States for additional process. *See* Dkt. 27-2. Success in *D.V.D.* would thus not afford Mr. Quintero complete relief. This alone is sufficient reason to deny Respondents' request.

A stay or dismissal would also lead to unwarranted delay in reviewing Mr. Quintero's petition, in which his liberty is at stake and upon which he is entitled to a speedy determination. "[H]abeas proceedings implicate special considerations that place unique limits on a district court's authority to stay a case in the interests of judicial economy." *Yong v. INS*, 208 F.3d 1116, 1120 (9th Cir. 2000). The statutory provisions for prompt returns, immediate hearings, and summary disposition of habeas cases expressly require that petitions must be heard and decided promptly. *See* 28 U.S.C. §§ 2241, 2243; *Braden*, 410 U.S. at 490 (noting the need to "preserve the writ of habeas corpus as a swift and imperative remedy in all cases of illegal restraint or confinement"). Accordingly, in habeas proceedings, stays are substantive, not procedural. Delay

means more indefinite imprisonment, and that is the harm itself. *See Foucha v. Louisiana*, 504 U.S. 71, 80 (1992) (explaining the "importance and fundamental nature of the individual's right to liberty").

Resolution of *D.V.D.* will take many months or years given its complexity; the government has yet to file a responsive pleading.[15] Here, Mr. Quintero seeks expedited consideration. Am. Pet. at 33. Each day Mr. Quintero remains at CECOT compounds the very harm that he filed this case to remedy, *i.e.*, his continuing unlawful imprisonment in a foreign prison notorious for human rights abuses. *See Garmendiz v. Capio Partners, LLC*, No. 8:17-CV-00987, 2017 WL 3208621, at *2 (M.D. Fla. July 26, 2017); *Richardson v. Verde Energy USA, Inc.*, No. CV 15-6325, 2016 WL 4478839, *2 (E.D. Pa. Aug. 25, 2016) (denying stay where "the duration of the stay is indeterminate" and such "a significant delay with unknown limits would cause [plaintiffs] unnecessary prejudice"). Accordingly, this Court should deny Respondents' request to stay or dismiss this case pending *D.V.D.*

CONCLUSION

For the foregoing reasons, Respondents' Motion to Dismiss and their Alternative Motion to Stay Proceedings should be denied.

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Respectfully submitted,

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[15] The parties in *D.V.D.* are currently mired in disputes over the government's compliance with the court's preliminary injunction. *See D.V.D.*, No. 1:25-cv-10676 (D. Mass. May 7, 2025), ECF Nos. 91, 92. Those disputes are likely to be protracted and do not relate to Mr. Quintero.

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