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8 IN THE UNITED STATES DISTRICT COURT  
9 EASTERN DISTRICT OF CALIFORNIA

10 JOHN DOE,  
11 Petitioner,  
12 v.  
13 MOISES BECERRA, ET AL.,  
14 Respondents.

CASE NO. 2:25-CV-00647-DJC-DMC

RESPONSE TO MOTION TO AMEND FINAL  
ORDER GRANTING TRO/PI RELIEF

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16 **I. Introduction**

17 On February 24, 2025, Petitioner filed a motion for temporary restraining order (TRO) and  
18 motion for habeas corpus relief pursuant to 28 U.S.C. § 2241. ECF 1, 2. On March 3, 2025, this Court  
19 granted the TRO/Preliminary Injunction (PI) and ordered that “Petitioner be granted a hearing before an  
20 Immigration Judge where the Government bears the burden of proving by clear and convincing evidence  
21 that Petitioner poses a danger to the community or a risk of flight.” ECF 19 at 2. On March 10, 2025,  
22 Petitioner received a bond hearing where the government bore the burden to justify, by clear and  
23 convincing evidence, Petitioner’s ongoing detention. The Immigration Judge held the government met  
24 its burden and denied bond to the Petitioner. *See* Supplemental Villagran Declaration (Decl.) p 2. *See*  
25 *also* Decl. Exh. 1 and 2. On April 3, 2025, Petitioner simultaneously appealed the denial of bond to the  
26 Board of Immigration Appeals (BIA) and filed a motion to enforce the PI. *See* ECF 23 and 42. While  
27 awaiting the BIA decision, on August 8, 2025, Petitioner filed a Motion to Amend this Court’s March 3,  
28

1 2025 final order granting first TRO/PI motion relief. *See* ECF 42. On August 26, 2025, the BIA  
2 affirmed the Immigration Judge’s denial of bond. *See* Decl. p. 2. *See also* Decl. Exh. 3.

3         Petitioner cites three new facts to justify his request: (1) Citation by other Courts to this Court’s  
4 March 3, 2025 order granting the TRO motion; (2) a “provisional” block of an Interpol Red Notice  
5 against Petitioner, pending additional information from India; and (3) the anticipated length of time it  
6 will take for Petitioner’s pending BIA bond appeal to be decided. ECF 42 at 11-12. Petitioner claims  
7 said three facts compel this Court to amend its March 3, 2025 final TRO/PI order relief by directing his  
8 immediate release (despite an Immigration Court order finding *inter alia* he is a danger to the  
9 community). *Id.*

10         **II. As a matter of law, Petitioner’s Motion to Amend this Court’s March 3, 2025 final**  
11         **order granting TRO/PI motion relief is unfounded**

12         This Court, respecting the finality of it’s own ruling, should decline to exercise discretion to  
13 grant the motion to amend. *See Rodgers v. Watt*, 722 F.2d 456, 459 (9th Cir. 1983) (en banc) (holding  
14 there exists a “compelling interest in the finality of judgments which should not lightly be disregarded”).

15         Federal Rule of Civil Procedure 15(a) does not allow for belated amendment to either the  
16 TRO/PI motion or the final order resolving the TRO/PI. Here, Petitioner impermissibly filed his motion  
17 to amend the final order five months after this Court’s final order, and did not make any mention of Rule  
18 15(b) in his motion. Accordingly, as a matter of law, Rule 15(a) does not apply.

19         Petitioner similarly makes no claim that his motion to amend is based on Rule 60(b), and this  
20 Court should decline to construe it as a motion for reconsideration. None of Petitioner’s alleged new  
21 facts constitute grounds for relief articulated under Rule 60(b)(1)-(6) such as mistake, inadvertence,  
22 surprise, excusable neglect, or fraud. Petitioner’s alleged new facts do not show or even allege this  
23 Court erred in its March 3, 2025 final order granting first TRO/PI motion relief. Petitioner had the  
24 opportunity to raise such challenges both after the Order was issued and during the litigation of his  
25 Motion to Enforce, but did not. *See* ECF 41.

26         Instead, Petitioner relies on several cases that are distinguishable from the instant case.  
27 Petitioner’s reliance on *A&M Records v. Napster, Inc.*, 284 F.3d 1091, 1098 (9th Cir. 2002), *Dietz v.*  
28 *Bouldin*, 579 U.S. 40, 46–47 (2016); *Swann v. Charlotte-Mecklenburg Bd. of Ed.*, 402 U.S. 1, 15 (1971);

1 *Price v. City of Stockton, Cal.*, 394 F. Supp. 2d 1256, 1262 (E.D. Cal. 2005); *Martinez v. City of Fresno*,  
2 2022 WL 1645549, at \*15 (E.D. Cal. May 24, 2022); and *Armstrong v. Newsom*, 484 F. Supp. 3d 808,  
3 849 (N.D. Cal. 2020), aff'd, 58 F.4th 1283 (9th Cir. 2023), is wrong because each of these cases pertain  
4 to district court authority to issue compliance rulings in “continuing injunction” orders and consent  
5 decrees. To the extent the cases address TRO/PI relief orders, each case involves compliance and  
6 monitoring through change in circumstances, for example, school board desegregation orders, industry  
7 and city planning compliance continuing-operations orders, which orders and decrees required periodic  
8 compliance hearing.

9 By contrast, the instant matter involves individualized TRO/PI relief for a specific claimant in a  
10 specific process (a bail hearing in Immigration Court), with subsequent review (through motion to  
11 enforce, *see* ECF 41). Petitioner cites no legal basis for this Court to simply recast its March 3, 2025  
12 final order granting TRO/PI motion relief. Significantly, Petitioner seeks to amend the March 3, 2025  
13 final order granting first TRO/PI motion relief five months after Petitioner failed to achieve Immigration  
14 Court bail through due process fully safeguarded through this Court’s relief order. This Court should  
15 deny the motion to amend as unfounded.

16 **III. Petitioner’s alleged changed circumstances do not undermine the due process already**  
17 **afforded to Petitioner via numerous hearings, both in this Court and Immigration**  
18 **Court**

19 In issuance of its March 3, 2025 final order granting first TRO/PI motion relief, this Court  
20 recognized limits in what was demanded in the first TRO/PI motion and what the court could lawfully  
21 order. Indeed, in denying Petitioner’s Motion to Enforce, this Court emphasized such limits.

22 Petitioner’s Motion to Enforce thus seeks different relief well beyond what was briefed and  
23 ordered previously. Petitioner may challenge the adequacy under due process of the hearing and  
24 whether the IJ’s finding that the Government had met its burden was in error. However, such a  
25 challenge is not properly brought as a motion to enforce the Court’s prior Order. Subsequent  
26 challenges to the sufficiency of the IJ’s determination constitute a new and separate basis for  
27 relief which must be brought in a habeas proceeding after Petitioner has exhausted his  
28 administrative remedies.

ECF 41 at 7.

Here, Petitioner’s supposed changed circumstances are not material to the result in Immigration  
Court. Petitioner, in compliance with this Court’s March 3, 2025 final order granting first TRO/PI

1 motion relief, failed to obtain bail. *See* Decl. p 2. *See also* Decl. Exh. 1 and 2. Petitioner’s supposed  
2 changed circumstances do not undermine the due process already afforded to Petitioner through (1) the  
3 March 3, 2025 final order granting first TRO/PI motion relief, (2) the Immigration Bond hearing on  
4 March 10, 2025, and (3) the August 26, 2025 denial of Petitioner’s appeal. Indeed, in his motion,  
5 Petitioner asks this Court to release him from custody until “he is provided a constitutionally compliant  
6 bond hearing before a neutral arbiter where the government bears the burden.” *See* Pet. Mtn. to Amend,  
7 p. 10. Petitioner has already received this via the numerous hearings discussed *supra*, and the  
8 government has met its burden. The three new facts make no difference to the resulting, undisputed  
9 finding, that Petitioner is a danger to the community by clear and convincing evidence.

10 Petitioner cites to the “provisional” block of the Interpol Red Notice to attack the reliability of  
11 the underlying information provided to Interpol. However, in its August 26, 2025 decision, the BIA did  
12 not address the Red Notice at all. Instead, the BIA affirmed the IJ’s danger finding “solely on the  
13 evidence of the respondent’s arrest, charge, and participation in a diversion program for vehicle theft,  
14 and evidence presented showing the respondent holding firearms.” *See* Decl. Exh. 3, p. 3. In fact, the  
15 BIA explicitly noted that, “[b]ecause we affirm the Immigration Judge on this basis, we need not address  
16 the Immigration Judge’s findings and the respondent’s appellate arguments regarding the reliability of  
17 DHS’s evidence of an Interpol Red Notice.” The underlying facts of Petitioner’s prior criminal history,  
18 which the IJ and BIA relied upon in their respective orders, remain undisputed by Petitioner.  
19 Accordingly, the provisional block on the Interpol Red Notice is not material and does not constitute  
20 grounds to revisit this Court’s final TRO/PI order.

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1 **IV. The BIA decision renders moot Petitioner’s argument regarding the length of**  
2 **Petitioner’s pending BIA bond appeal**

3 Petitioner filed his motion on August 8, 2025. In this motion, he raised concerns that his appeal  
4 would be a protracted process, citing an average of 204 days for BIA appeals. *See* Pet. Mtn. to Amend,  
5 p. 13. Instead, the BIA rendered its opinion eighteen days later, on August 26, 2025. Accordingly,  
6 Petitioner’s alleged new fact, and accompanying argument, is moot.

7 Dated: 9/16/2025

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