UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

KLEIBER ALEXANDER ARIAS GUDINO,

Petitioner,

v.

CRAIG LOWE, *in his official capacity as* Warden, Pike County Correctional Facility; BRIAN MCSHANE, *in his official capacity as* Acting Field Office Director, Philadelphia Field Office, United States Immigration and Customs Enforcement; TODD M. LYONS, *in his official capacity as* Acting Director, United States Immigration and Customs Enforcement; KRISTI NOEM, *in her official capacity as* Secretary of Homeland Security; PAMELA BONDI, *in her official capacity as* United States Attorney General,

Respondents.

No. 25-cv-571 (KM/DFB)

PETITIONER'S REPLY BRIEF IN SUPPORT OF PETITION FOR HABEAS CORPUS

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INTRODUCTION

Petitioner Kleiber Alexander Arias Gudino ("Petitioner or "Mr. Arias Gudino") was unlawfully arrested and detained by Immigration and Customs Enforcement ("ICE") and Respondents[1] cannot retroactively remedy their grievous violations of his due process rights. Only after (i) the filing of this Petition, (ii) the filing of a motion for a temporary restraining order ("TRO") and preliminary injunction, and (iii) being pressed by the Court, did ICE provide ***any*** rationalization for his detention, by which point, he had spent nearly a month locked up far from his family. Nothing in Respondents' Response has any bearing on the Court's correct

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[1] Respondents argue that Petitioners claims should be brought against only the Warden of Pike, and the Federal Respondents should be dismissed. ECF No. 32 at 1 n.1. ICE itself acknowledges that its Field Office Director is the true custodian of ICE detainees, regardless of where ICE chooses to house them. ICE OIG-18-32, Concerns About ICE Detainee Treatment and Care at Detention Facilities, https://www.oig.dhs.gov/sites/default/files/assets/2017-12/OIG-18-32-Dec17.pdf (describing that ICE ERO Field Office Directors are "are chiefly responsible for detention facilities in their assigned geographic area. ICE ERO oversees the confinement of detainees in nearly 250 detention facilities that it manages in conjunction with private contractors or state or local governments.") The decision to detain or release people in ICE custody at Pike rests with ICE not with Warden Lowe; thus, the Federal Respondents are proper Respondents along with Warden Lowe. *See Arias v. Decker*, 459 F. Supp. 3d 561, 568 (S.D.N.Y. 2020) ("Petitioners are held in a county jail under contract with ICE, but they are 'in custody pursuant only to the power and authority of the federal government,' and, therefore, the person with the power to produce their bodies and effect their release is 'the *federal* official most directly responsible for overseeing the contract facility.') (citing *Rodriguez Sanchez v. Decker*, No. 18 Civ. 8798, 2019 WL 3840977, at *2 (S.D.N.Y. Aug. 15, 2019)).

finding that Petitioner's due process rights were likely violated, and that Mr. Arias Gudino accordingly must be released from immigration detention. ECF No. 29. This Court should grant Mr. Arias Gudino's habeas petition and prevent the Government from re-detaining him on the same flimsy grounds.

FACTUAL AND PROCEDURAL HISTORY

Mr. Arias Gudino fled Venezuela for the United States, where he applied for Temporary Protected Status ("TPS") on November 3, 2023, shortly after the October 3, 2023 extension of Venezuela's TPS designation. Extension and Redesignation of Venezuela for Temporary Protected Status, 88 Fed. Reg. 68130 (Oct. 3, 2023); ECF No. 1, Petition, ("Pet.") ¶ 35.

Pending the resolution of his removal proceedings, ICE held Mr. Arias Gudino in custody from April 15, 2024 to November 15, 2024. *See* Pet. ¶¶ 39-44. After accepting a removal order to prevent prolonged separation from his family, ICE released him pursuant to 8 C.F.R. § 241.4(i)(7), and issued an order of supervision ("OSUP") pursuant to 8 C.F.R. § 241.4(j), which provided the conditions for his release. Pet. ¶¶ 42-45.[2]

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[2] Mr. Arias Gudino was later placed on ICE's Intensive Supervision Appearance Program ("ISAP") and fitted with an ankle monitor, but ICE removed the ankle monitor shortly after Mr. Arias Gudino was granted TPS. Pet ¶¶ 45, 50.

On January 20, 2025, USCIS granted Mr. Arias Gudino's application for TPS. Pet. ¶48. During this time, Mr. Arias Gudino spent time with his family, including his mother, siblings, and then one-year-old daughter. Pet. ¶¶48-49. He applied for a work permit and social security card to support his family. Pet. ¶ 49; *see also* Monica Yumaira Arias Gudino Decl. ¶ 6.

On March 14, 2025, federal agents arrested Mr. Arias Gudino during a violent, early morning raid at his home in the Bronx New York, traumatizing his daughter, and dragging him away in his underwear. Pet. ¶¶ 58-61. New York ICE Enforcement and Removal Operations ("ERO") took him into custody and detained him at Pike County Correctional Facility. *See* Ex. B, Kleiber Alexander Arias Gudino Decl. filed ISO Admin. Appeal of TPS, ¶ 11. At the time of his arrest, Petitioner was eligible for (and had received) TPS and was complying with all terms of his OSUP. In response to multiple inquiries by counsel and Petitioner as to the basis of his detention, John Guerra, Assistant Field Office Director at ICE's New York City Field Office, stated via a March 15 email to counsel: "Your client is being detained because he is statutorily ineligible for temporary protected status." *See* ECF No. 1-3 at 5.

On March 31, 2025, Petitioner filed the instant Petition for a writ of habeas corpus as his immigration detention was unlawful. ECF No. 1. On April 7, 2025, Petitioner filed a motion for a temporary restraining order and preliminary

injunction seeking immediate release. ECF No. 13. On April 8, 2025, during a conference on Petitioner's motion before this Court, counsel for Respondents indicated, for the first time, that Mr. Arias Gudino had some unspecified and unsubstantiated association with Tren de Aragua, a Venezuelan gang. ECF No. 19 at 3-5.

After the status conference with the Court, ICE provided two *post-hoc* rationales for Petitioner's detention. On April 8 and 9, 2025, more than three weeks after he was initially detained, after he initiated the instant habeas action and moved for a preliminary injunction, and after the Court granted him initial emergency relief, ICE notified Mr. Arias Gudino that his release was revoked due to violations of the OSUP. The April 8 notification purported to revoke the OSUP on the grounds that his removal was imminent. ECF No. 18-14. Then, ICE again updated its belated justification for detention: On April 9, 2025, Mr. Arias Gudino received a second revocation notice that added the allegation that he had violated his OSUP by associating with gang members. ECF No. 18-15. ICE did not explain the reason or significance of issuing a second notice one day after the first notice.

On April 14, 2025, the day before oral argument on the preliminary injunction motion, Mr. Arias Gudino received a TPS withdrawal notice, alleging an association with TdA. ECF Nos. 21-22. USCIS determined it had "reasonable grounds for regarding [him] as a danger to the security of the United States under INA

208(b)(2)(A)(iv)" and found him ineligible for TPS. *Id.* No supporting records or documentation were attached to the withdrawal decision. A single sentence attempts to justify this allegation: "According to the I-213, Record of Deportable / Inadmissible Alien, you have been identified as a member of Tren de Aragua by the FBI." *Id.*

On April 21, 2025, this Court granted Petitioner's motion for a preliminary injunction and ordered his immediate release and return to New York. ECF No. 29. Mr. Arias Gudino was released from ICE detention on an OSUP and placed on ISAP reporting requirements, which he has complied with, including by wearing an ankle monitor. Ex. B ¶15.

After this Court ordered Mr. Arias Gudino released from immigration detention, he has reunited with his family. Ex. B ¶ 15. Mr. Arias Gudino is a loving father, son, and older brother. ECF No. 19-2; Ex. A, Excerpts from Admin Appeal of TPS, at 12.[3] He is committed to supporting his family and gaining additional skills which will help him succeed in new trades. Ex. A at 5. He works in construction and painting, and is currently the primary caregiver for his one-one-

[3] Petitioner received an outpouring of support from people who attest that he is a benefit to his family and community, as a trusted friend and family member. Ex. A at 12.

and-a-half-year-old U.S. citizen daughter. She has needed medical treatment during the past few weeks and he has taken her to the clinic for her care. Ex. B ¶ 15.

On May 13, 2025, USCIS received Petitioner's timely filed Form 1-290B, Appeal of Withdrawal of Applicant's TPS Status, which remains pending with USCIS as of the date of this filing. *See* Ex. C, USCIS Receipt of Admin. Appeal of TPS.

LEGAL DEVELOPMENTS

Mr. Arias Gudino previously sought an extension to submit his reply in light of, *inter alia*, pending motion practice in *National TPS Alliance v. Noem*, No. 3:25-cv-01766 (N.D. Cal.), that would clarify the status of TPS and the benefits associated with TPS-related documentation after the Supreme Court issued its decision in *Noem v. Nat. TPS All.*, No. 24A1059, --- S.Ct. ---, 2025 WL 1427560, at *1 (U.S. May 19, 2025). *See* ECF No. 35. Pursuant to this request, this Court granted Mr. Arias Gudino an extension of time to file his reply to Respondents' response until July 2, 2025. ECF No. 37.

During this extension, developments in *National TPS Alliance* have clarified that Venezuelan TPS-holders, like Mr. Arias Gudino, who "received EADs, Forms I-797, Notices of Action, and Forms I-94 issued with October 2, 2026 expiration dates pursuant to the January 17, 2025 extension of TPS for Venezuela" continue to

receive all benefits and protections associated with TPS. *See Nat'l TPS All. v. Noem*, No. 25-cv-01766-EMC, 2025 WL 1547628, at *7 (N.D. Cal. May 30, 2025). In its decision, the court found that DHS Secretary Noem "exceeded her statutory authority" when purporting to immediately invalidate TPS-related documents issued pursuant to the January 17, 2025 extension. *Id.* at 3-4. This is because she immediately, and without notice, attempted to cancel the program, despite the reliance interests of TPS holders who had already received documents pursuant to that extension. *Id.* at *4. This Order applies specifically to those TPS holders, like Petitioner, who received TPS-related documentation between October 2, 2026 and February 5, 2025, when Secretary Noem purportedly terminated TPS for Venezuelans. *Id.* at *7.

ARGUMENT

Respondents present the type of "*post hoc* rationalization" that courts must reject. *See Marshall v. Lansing*, 839 F.2d 933, 944 (3d Cir. 1988). As the Third Circuit has stated, "we will not search the record to find support for the agency's decisions unless its 'conclusions [are] . . . readily apparent' so that 'broad inferential leaps [are] not needed to reach the determinations.'" *W.R. Grace & Co. v. United States EPA*, 261 F.3d 330, 338 (3d Cir. 2001) (quoting *Marshall*, 839 F.3d at 944). Respondents ask this Court to take a take such a "broad inferential leap." *Id.* They assert that Mr. Arias Gudino's OSUP was revoked on March 14, 2025 even though

the record does not support that assertion. Respondents ask the Court to give effect to their belated and piecemeal revocation of Mr. Arias Gudino's OSUP—first on April 8, on the erroneous basis that his removal had become imminent, and again on April 9, on the additional erroneous basis that he had violated his OSUP. As this Court noted:

> Respondents contended at the hearing that there was a new justification for Arias Gudino's detention beginning on March 14, 2025, when his TPS status was revoked. The regulation cited by Respondents states that the government must give notice "upon revocation [of release]" 8 C.F.R. § 241.4. The government cannot avoid this requirement . . . through a *post hoc* additional justification for a revocation, and then give a detainee notice of its *post hoc* justification after initially failing to give notice and detaining him.

ECF No. 28 at 23, n.8. This Court already found, when it granted Mr. Arias Gudino's preliminary injunction, that he is "likely to succeed on the merits of his procedural due process claim," rendering his detention unlawful. ECF No. 28, at 24.

Furthermore, the violations of Mr. Arias Gudino's due process rights are ongoing and cannot be cured. If the Court credits Respondents' position, ICE will have a loophole permitting it to violate the law by targeting people lawfully present in the United States for detention and removal, then scrounge for slapdash justifications for their arrest later.

A. ICE Unlawfully Detained Petitioner

1. The Belated OSUP Revocation Notices Are Not a Legal Basis for Petitioner's Detention or Re-Detention.

In their Response brief, Respondents claim for the first time that ICE

revoked Petitioner's OSUP at the time of his arrest on March 14 for his purported association with known gang members, ECF No. 32 at 15, and that violation served as a basis for his detention. *Id.* at 18-19. Neither the facts nor the law supports this baseless assertion.

First, ICE did not notify Mr. Arias Gudino that his OSUP had been revoked prior to—or during the first three weeks—of his detention, or provide him any pre-deprivation process, which ICE is required to do if it intended to re-detain him. *See* 8 C.F.R. § 241.4(l)(1) (an order of supervision can only be revoked where "the [noncitizen is] notified of the reasons for revocation of his or her release or parole. The [noncitizen] will be afforded an initial informal interview promptly after his or her return to [ICE] custody to afford the [noncitizen] an opportunity to respond to the reasons for revocation stated in the notification.");[4] Pet. ¶ 51. Instead, after repeated inquiries, ICE ERO—the very entity Respondents now claim revoked the OSUP on March 14—stated on March 15 that his detention was based on his

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[4] Although Mr. Arias Gudino had already spent three weeks in detention by that time, the text of ICE's April 8 notice purporting to revoke his OSUP further reinforces the standard pre-deprivation notice required by these regulations, stating "This letter is to inform you that your order of supervision has been revoked, and ***you will be detained*** in the custody of U.S. Immigration and Customs Enforcement (ICE) at this time." ECF No. 18-4. Had this notice been served on Mr. Arias Gudino prior to his detention, it might have complied with the notice requirements. Strangely, the April 9 notice alters this language and states, "***you will be kept*** in the custody" of ICE at this time. ECF No. 18-15.

statutory ineligibility for TPS. *See* ECF No. 1-3 at 5. It was not until Petitioner filed the instant habeas and moved for a TRO that the Government even began its multiple, fumbling attempts to articulate a separate basis for his detention.

Second, the OSUP revocations are clearly deficient. The initial revocation notice claimed only that Petitioner's removal was "imminent." ECF No. 18-14. However, there is no question Petitioner had valid TPS at this time and so ***he could not be removed*** pursuant to 8 U.S.C. § 1254a(a)(1)(A). Thus, removal could not conceivably be considered imminent. Mr. Arias Gudino's removal did not become reasonably foreseeable on March 14, April 8, or April 9—since these dates predate the TPS withdrawal letter issued on April 15. And the withdrawal of TPS alone does not make his removal imminent, *see infra* Section A-2.

Moreover, the claims made in the April 9 OSUP revocation notice that he violated the terms of his OSUP for associating with "known or suspected" TdA members are flimsy and unreliable. *See, e.g., Crawford v. Jackson*, 323 F.3d 123 (D.C. Cir. 2003) (rejecting a parole board's exclusive reliance on a police investigative report, acknowledging the general lack of reliability of such reports); *see also infra* Section B.

What is left, then, is that ICE detained Mr. Arias Gudino, a TPS holder, pursuant to his immigration status, in plain violation of the TPS statute. 8 U.S.C. § 1254a(d)(4). Even if, *arguendo*, the Court maintains that ICE may detain a

noncitizen with valid TPS for an OSUP violation,[5] the Court should not permit ICE to conjure a *post hoc* OSUP revocation (let alone two)—particularly where ICE failed to follow its own regulations for issuing the revocation and conclusory gang allegations are presented as if they were evidence.

2. Petitioner's TPS Withdrawal Is Not Final and Is Not a Legal Basis for His Detention.

A month after his arrest and detention, Petitioner received a withdrawal of his TPS, based on false, vague, and unsubstantiated allegations that he is a member of TdA. Respondents cannot retroactively use the withdrawal of TPS one month into Petitioner's unlawful detention to strip him of that protection or justify his arrest, particularly as Petitioner's administrative appeal of the TPS withdrawal remains pending.

As previously submitted to this Court, Mr. Arias Gudino had TPS at the time of his arrest and at the time of the initiation of these proceedings. ECF No. 1, ¶¶ 1,4. And the Forms I-797 and I-94 that he submitted, approved on January 20, 2025, list October 2, 2026 as their expiration dates. ECF No. 1-1.

Further, since his release, Mr. Arias Gudino has appealed his TPS revocation. Exs. A, C ; *see also* 8 C.F.R. § 244.14(b)(3). Accordingly, Mr. Arias Gudino retains

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[5] Petitioner respectfully maintains that the TPS statute provides that individuals ordered removed remain protected so long as they qualify for TPS and unambiguously bars their detention. *See generally* ECF No. 25.

his TPS benefits for the pendency of his administrative appeal. *See* 8 C.F.R. § 244.10(f). Thus, Mr. Arias Gudino continues to receive the benefits and protections associated with TPS, including, but not limited to the right to not be removed from the United States and work authorization. *See* 8 U.S.C. § 1254a(a)(1).

Notably, this belies Respondents' contention that he can be detained to be removed, ECF No. 32 at 17; his removal is barred by statute. Noncitizens who have been ordered removed cannot be held in civil immigration detention when that removal is not reasonably foreseeable, as here, because that detention serves no legitimate government purpose. *See Zadvydas v Davis*, 533 U.S. 678, 699 (2001) ("[I]nterpreting [8 U.S.C. § 1231(a)(6)] to avoid a serious constitutional threat, we conclude that, once removal is no longer reasonably foreseeable, continued detention is no longer authorized by statute."); *see also* ECF No. 13 at 20-21. Respondents point to no evidence that Mr. Arias Gudino's removal is reasonably foreseeable, so their justifications for his detention must fail.

And, finally, Respondents cannot simultaneously claim that the April 14 withdrawal notice terminates Petitioner's TPS, ECF No. 32 at 19-21, and also that the agency decision is not final for the purposes of dismissing the APA claim, *id.* at 29-31.

B. ICE Violated Petitioner's Procedural Due Process Rights

This Court previously found that Mr. Arias Gudino was likely to succeed on the merits of his procedural due process claim given that Respondents provided no notice of his TPS or OSUP revocation until they had already detained him for nearly a month. ECF No. 28 at 12. Respondents have already violated Mr. Arias Gudino's due process rights by failing to provide notice of his TPS withdrawal and OSUP revocation prior to his unlawful detention. *Id.* They should be barred from re-detaining him on precisely the same grounds. *See Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004) (stating freedom from physical detention "is the most elemental of liberty interests").

Respondents' attempts to distinguish *Martinez v. McAleenan*, 385 F. Supp. 3d 349 (S.D.N.Y. 2019) are unavailing. Troublingly, they present threadbare, conclusory, and false gang allegations to this Court as credible. Respondents *erroneously* state that the FBI informed ICE upon arrest that Petitioner was associating with gang members, that he was identified as a gang member, and that he was "present during criminal activity." *See, e.g.,* ECF No. 32 at 15, 19, 27, 28.

First, Petitioner vehemently denies any connection to TdA or any other gang. Ex. B ¶¶ 12-13; ECF No. 19-1 ¶¶ 3-5, 7; ECF No 19-2 ¶ 3. Prior to the March 14,

2025 I-213, no law enforcement agency—including DHS[6]—had ever alleged that Petitioner was a member, affiliate, or associate of a gang. ECF No. 19-1 ¶ 4.[7]

Second, Respondents misconstrue the contents and weight of the Form I-213 and judicial warrant—the *sole* evidence presented to supposedly establish gang affiliation. ECF No. 18-12; ECF No. 18-13; Ex. A at 6-10. The I-213 contains multiple layers of unauthenticated hearsay, numerous inconsistencies, and mispresents significant facts, which undermine its reliability, *inter alia*:

- The I-213 states that "ARIAS-Gudino appeared to be foreign born which initiated FBI contact with ERO NYC to verify citizenship." Thus, the FBI notified DHS about Mr. Arias Gudino *not because he had been identified as a gang member*, but because he "appeared to be foreign born." Appearing to be "foreign born" is not indicative of gang membership. Any reliance on such a racially-tinged allegation would be unconstitutional.[8]
- The I-213 states that "At approximately 0600 hours, the FBI Task Force executed a gang related (Tren De Aragua) search warrant for at [location] that

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[6] Mr. Arias Gudino had multiple DHS encounters over the course of three years, and no gang allegations were made against him, nor were they made when ICE released him from detention on November 15, 2024. Ex. A at 6, 13.

[7] *See also* ECF No. 19-3 ¶ 4 (to recommend Petitioner for the PTI judicial diversion program, the prosecutor and the program director must consider 17 statutory factors, including, specifically, "[a]ny involvement of the applicant with organized crime." N.J. Stat. Ann. § 2C:43-12(e)(13).)

[8] Rebecca A. Hufstader, Note, *Immigration Reliance on Gang Databases: Unchecked Discretion and Undesirable Consequences*, 90 N.Y.U. 671, 696 (2016) ("This statistical evidence of disparate impact suggests that the racial stereotypes in "gang-related" law enforcement leave people of color vulnerable to a disproportionately high risk of erroneous documentation.) (internal citations omitted).

housed TDA Gang Members." However, the FBI search warrant does not mention gangs or TdA anywhere.

- The description of Mr. Arias Gudino's tattoos alleges that he has a tattoo of a "'Klieber' [sic] crown in his right arm," when he has a tattoo of his own name in a cursive script on his arm, with no crown. ECF No. 19-1 ¶ 5.

The search warrant is similarly insufficient to reasonably establish that Petitioner is associated in any way with TdA, and certainly not to the extent that the Reply carelessly suggests.

- The warrant ***does not once*** mention that the raid was related to an investigation into a gang or TdA gang members residing at the residence.
- The warrant does not name Petitioner, nor does it establish any association between Mr. Arias Gudino and the target of the search warrant.
- Although the warrant lists items the search is focused on, there has been no evidence presented that the FBI found evidence of criminal activity, criminal contraband, or determined that ***any*** TdA members were present in the building. Further, no evidence has been presented about any criminal charges resulting from the investigation pursuant to the warrant.

Third, Respondents are improperly imputing guilt on Petitioner and creating catastrophic consequences for him and his family, based on Petitioner's mere presence in his own home. Petitioner lived with his family, his mother, siblings, and toddler in two rooms of a five-bedroom apartment. ECF No. 19-1 ¶ 6; ECF No. 19-2 ¶ ¶4; Ex. A at 8. They rented their rooms on a monthly basis, while various short-term renters paid for the remaining rooms on a weekly basis. *Id.* Respondents themselves explain that the gang allegations stem from Petitioner being "***in a location*** during the execution of a search warrant," ECF No. 32 at 15, 18 (emphasis

added),[9] *i.e.*, he was sleeping at 4 a.m. with his family and young daughter when federal agents with guns entered. Allowing the Government to strip someone of his status and freedom based on 'guilt by proximity' merely because Mr. Arias Gudino and his family do not have the resources to afford a private apartment, is antithetical to the Constitution.[10] The casualness with which the Response brief frames this guilt-by-association as credible belies the fact that requiring due process is what stands between a father being able to care for and take his child to her doctor's appointments, between a son and brother being able to come home to his family, and someone being unlawfully detained and unlawfully removed from the United States, potentially to a third country.[11]

Lastly, the gang allegations here are part of a larger pattern by DHS to target Venezuelan immigrants through trumped up gang allegations. *See, e.g., Sanchez*

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[9] By this reasoning, the actions and associations of anyone renting in an apartment building, whether of 5 apartments or 100, would impute to everyone else in the building. The absurdity of this does not change merely because the configuration is akin to a rooming house, rather than a condo building.

[10] Ex. A at 8 ("They lived alongside other tenants who rented on a weekly basis and did not know their backgrounds. In a densely populated city like New York, it is common to live among a diverse array of tenants without knowledge of their backgrounds. Financial necessity, not criminal association, drove Mr. Arias Gudino's housing choices.").

[11] *See, e.g.,* Whistleblower complaint filed on June 24, 2025, by Mr. Erez Reuveni, formerly the Acting Deputy Director for the Office of Immigration Litigation of the Department of Justice, https://www.judiciary.senate.gov/imo/media/doc/06-24-2025_-_Protected_Whistleblower_Disclosure_of_Erez_Reuveni_Redacted.pdf .

Puentes v. Garite, 25-cv-00127, 2025 WL 1203179 (W.D. Tex. April 25, 2025) (rejecting a TdA gang allegation based on the petitioner's relationship and cohabitation with his wife, whom the government also alleged is a Tren de Aragua member or associate, dismissing a claim he is "guilty by association" as baseless).[12] According to experts on Venezuelan gangs, Respondents' procedures for identifying TdA members suffer from serious methodological flaws and can be expected to lead to misidentification. *See* Ex A at 9-10; ECF No. 19-4 ¶¶ 22-28.

If his habeas petition is not granted, there is a high risk that Petitioner will suffer significant erroneous deprivation of significant liberty interests. Where someone is only given a rationalization for the detention well after they were detained by ICE, the risk of erroneous deprivation is "extremely high." *Martinez*, 385 F.Supp.3d at 364. The notice the Government afforded Mr. Arias Gudino occurred nearly a month after his arrest, placing them squarely within the *Martinez* framework. Moreover, the violation of his procedural due process rights relates back to the time that he was taken into custody, *id.*, and cannot be cured by any *post hoc* rationalization. If the Court decides that he could be re-detained, he should be entitled to a robust pre-deprivation hearing.

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[12] *See also J.G.G. v. Trump*, No. 25-cv-766, 2025 WL 1577811, *6 (D.D.C. June 4, 2025); *J.A.V. v. Trump*, No. 1:25-CV-072, 2025 WL 1257450, at *4-5 (S.D. Tex. May 1, 2025).

Dated: July 2, 2025

Respectfully submitted,

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**Appearing pro hac vice pursuant to Local R. 83.2.1*

CERTIFICATE OF SERVICE

I, Lucas Marquez, undersigned counsel, hereby certify that on this date, I served this Reply Brief and all attachments on Respondents using the CM/ECF system.

Dated: July 2, 2025

/s/ Lucas Marquez
Lucas Marquez

Pro Bono Counsel for Petitioner

CERTIFICATE OF COMPLIANCE

I, Lucas Marquez undersigned counsel, hereby certify pursuant to Local R. 7(b)(2), that Petitioner's Reply Brief complies with the world count limit described in Local R. 7(b)(2). The actual number of words in the brief is 4,422.

Dated: July 2, 2025

/s/ Lucas Marquez
Lucas Marquez

Pro Bono Counsel for Petitioner