

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

Adriana Quiroz Zapata,
Petitioner

AGENCY FILE No. A 

Case No. **3:25-cv-0148-LS**

v.

**MOTION TO AMEND JUDGMENT
FOR ERRORS AND ADDITIONAL
EVIDENCE PER RULE 59(e)**

MARY ANDA-YBARRA, Field Office
Director, El Paso Field Office, Immigration
and Customs Enforcement, MARTIN
SARELLANO JR., Assistant Field Office
Director, El Paso Field Office, Immigration
and Customs Enforcement, TODD M.
LYONS, Acting Director, U.S. Immigration
and Customs Enforcement, KRISTI NOEM,
Secretary, U.S. Department of Homeland
Security, PAMELA JO BONDI, Attorney
General of the United States, *in their official
capacities.*

Respondents.

Per the Federal Rules of Civil Procedure, Rule 59(e), Petitioner urges the Court to amend the June 25, 2025 order and judgment as same contains conclusions which are factually or legally inaccurate in light of the attached evidence, provided

to the Court following the stated need for same. *See* ECF Nos. 18 & 19. *See also* Exhibits A and B. Legal authority exists to present this motion under the Federal Rules of Civil Procedure Rule 59(e) because same is filed on July 7, 2025, within 28 days of the June 25th 2025 decision by this Court. *Id.* *See also* FRCP 59(e).¹

PETITIONER'S SUPPORT FOR RULE 59(E) AMENDMENT

First, the Court's assertion that there is no evidence to show that Mexico would not be willing to accept Petitioner into their territory in the near future, is factually inaccurate, as displayed by the attached evidence from Mexican Immigration Authorities, declining to accept Petitioner. *Id.* at Exhibits A & B.

Second, assertions by the Court that Respondent poses a future risk of non-compliance or flight following her release, appears factually inaccurate where New Jersey Congressman Rob Menendez's office has provided written assurance of their assistance with Petitioner's future ICE-Check-In compliance at the Newark New Jersey ICE facility (where she would report post-release). *See* Exhibit C. *See also* Relatives' Assurances at ECF No. 17 Exbts. A & B.

Third, the Court's classification of Petitioner's 2021 removal order as being enforceable, is legally and factually inaccurate due to the fact that the prior order has never been formally reinstated by Respondents as required by 8 C.F.R. § 241.8(b) and the 30-day deadline for reinstatement per 8 C.F.R. § 241.8(e) already passed on March 23, 2025. *See* 8 C.F.R. § 241.8(b)&(e). *See also* ECF No. 12.

This means that Respondents' only currently enforceable Immigration Court Order is the February 21, 2025 Order granting Petitioner Withholding of Removal under the Convention Against Torture (CAT). This order granting CAT, required/s

¹ Unless otherwise specified, references herein to "this Court's assertion/s" refer to the June 25th 2025 Order and Final Judgment in this matter at ECF Nos. 18 & 19.

ICE compliance with all related/applicable ICE Regulations, U.S. laws, and international laws after its issuance, as below cited in footnote 2.² *Id.*

Fourth, ICE is more unlikely to remove Respondent on the prior 2021 order where the unenforceable 2021 order is now being reviewed for reopening and closure (rescinding) by the Otay Mesa Immigration Court based on in absentia arguments relating to ineffective assistance of prior counsel in 2021. *Id.* See also Exhibit E. This type of Motion to Reopen filing legally prevents removal during its pendency per INA § 240(b)(5)(C), per 8 C.F.R. § 1003.23(b)(4)(ii), and often, such motions remain pending for a substantial length of time; months or even years.

The aforescribed evidence and claims of factual or legal error in this Court's decision does altogether warrant this Court's amendment of the June 25th denial as the weary Petitioner warrants release pursuant to her grant of relief and the absence of any proof that she is likely to be removed in the near future or likely to be noncompliant with ICE check-ins under Order of Supervision in future. *Id.* See also Exhibit C. See also ECF Nos. 18 & 19. Petitioner otherwise reiterates arguments presented in her Petition for Writ of Habeas Corpus filed April 28, 2025, now, through the lens of this/these new perspectives. *Id.* See also ECF No. 1.

RESPONDENTS' LACK FACTUAL SUPPORT FOR THEIR CLAIMS

Unlike Petitioner, Respondents, in their one filing before this Court, claim only that a three-month and six-month review already occurred as to Petitioner's detention, that Respondents are uncertain of Petitioner's future compliance with

² See 8 U.S.C. § 1231(C)(ii), the United States' commitment to non-refoulement under international law found in the 1951 Refugee Convention and the 1967 Protocol Relating to the Status of Refugees, the Immigration and Nationality Act § 241(b)(3), the Due Process and substantive Due Process Clauses of the Fifth Amendment, the Foreign Affairs Reform and Restructuring Act of 1998, Pub. L. No. 105-277, div. G, tit. XXII, § 2242(a), 112 Stat. 2681, 2681-822 (1998) (codified at Note to 8 U.S.C. § 1231); 8 C.F.R. § 1240.10(f); 8 C.F.R. § 1240.11(c)(1)(i), and the Asylum Act Safe Third Country Procedures and Directive at Article 20 (1)(d) defining the legal procedure for 3rd country placement protocols, which includes requirements of establishing some form of ties with the safe third country making it reasonable for the applicant to be returned to that country. See ECF No. 11 at Declaration as to ICE Actions Taken on March 27 and 28, Exhibit B.

ICE check-ins if released, and that future placement in another country is “likely.” *See* ECF No. 9 However, Respondents failed to support their claims with any proof that Petitioner has ever lacked compliance while in Respondents’ custody, that Petitioner has a criminal background, or that there is *any* specifically named country where removal is likely to occur in future, to support such claims. *Id.*

Additionally, Respondents’ failure to reinstate the prior removal order from 2021 by or before March 23, 2025 as legally required per 8 C.F.R. § 241.8(b) and (e), means that they do not have the apparent authority to “deport” Petitioner elsewhere without compliance with third country placement protocols and ICE policies pertaining to CAT Grantees. *See* Footnote 1. *See also* ICE Policy as to CAT Grantees 2004, 2012, & 2022. These laws and policies require release of CAT Grantees unless certain security risk criteria is present. *Id.* ICE failure therefore, to obtain permission from a third country prior to attempting to effectuate removal, constituted violations of U.S. and international law/s. *See* footnote 2.

This is because absent enforceability of the 2021 removal order due to the lack of lawful reinstatement, Petitioner as a CAT Grantee, does not meet with Asylum Act and U.S. Code factors described in footnote 2 as being an ideal 3rd country removal candidate. *Id.* This is because Petitioner has no family in any other third country, she does not pose any national security or criminal risks, and most importantly, **no safe third country has agreed to accept her** in accordance with 8 U.S.C. 1231(C)(ii)’s requirements, thus ICE efforts to do so were unlawful. *Id.*

CONCLUSIONS

An older woman with health issues and no criminal history or history of legal non-compliance in Respondents’ custody or outside of their custody, is asking to go home to New Jersey with her beloved family, following years of heinous sexual

and physical torture in Colombia, and now, nearly one entire year of detention. *Id.* See also ECF No. 12. See also Exhibit D.

In the absence of contrary evidence presented by Respondents of specifically named countries for future placement, formal acceptance issued by a third country, or proof that non-compliance by Petitioner following her potential release to New Jersey is likely, the evidence now before this Court that Mexico has not accepted her and that she has several family members and even a Congressman's office in New Jersey willing to attend to her future ICE compliance following any potential release, tends to show that there are no such likelihoods of her removal or noncompliance in the near future, as claimed by Respondents in their reply to this Court. See Exhibits A, B, & C. See also ECF No. 9.

Conclusively, Petitioner has presented sufficient information and evidence to warrant this Court's issuance of an amended order and judgment, and Petitioner thus humbly requests through counsel that this Court consider amending the June 25th 2025 order and judgment, in light of new evidence and claims as to factual and legal errors that exist therein, and, in the absence of any specific factually supportive evidence to the contrary being offered by Respondents. Petitioner asks same as her release under Order of Supervision (OSUP) to her New Jersey family members, per the Petition for Writ of Habeas Corpus filed April 28, 2025, is legally and factually justified in light of the aforementioned. See ECF No. 1.³

Respectfully Submitted,

³ Further supporting that it is unlikely Petitioner will soon be removed is the following facts: Respondents' only effort at alternative placement of Petitioner was unlawful as shown by her prompt retrieval by Respondents that same evening. This retrieval may have constituted parole of the Petitioner by U.S. Immigration Authorities in the early morning hours of March 28, 2025, which Mexico required of the U.S. where Petitioner was an unauthorized U.S. CAT Grantee brought by U.S. authorities without first obtaining requisite permission under International Law and U.S. Laws requiring that to first occur. The 2021 removal order was never formally reinstated, and thus ICE failure to release Petitioner prior to the 90-day post-CAT Grant period without any actual countries for removal in mind or provable doubts as to her compliance, has violated long-standing ICE policy as to release of non-criminal CAT Grantees, in place since 2004. See ICE Policy Memorandums as to CAT Grantees 2004, 2012, and 2022.

/s/ Lauren O'Neal
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Virginia State Bar No.: 91662

/s/ Omar Carmona
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Texas State Bar No.: 24059543

/s/ Constance R. Wannamaker
Constance R. Wannamaker
Texas State Bar No.: 24029329

VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, Adriana Quiroz Zapata, and submit this verification on her behalf. I hereby verify that the factual statements made in the foregoing Motion to Re-Urge and Reconsider based on additional evidence, are true and correct to the best of my knowledge.

Dated this 7th day of July, 2025.

/s/ Lauren O'Neal
Lauren O'Neal, Esq.
Virginia State Bar No.: 91662

/s/ Omar Carmona
Omar Carmona, Esq
Texas State Bar No.: 24059543

/s/ Constance R. Wannamaker
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