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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Victor Alfonso Aguilar Olarte,

Petitioner,

vs.

David R. Rivas, Warden, et al.,

Respondents.

No. 2:25-cv-1662-PHX-DLR (ESW)

**Reply in Support of Motion for Limited
Discovery**

The crux of the government's response to Mr. Aguilar's request for discovery in this matter appears to be that because ICE says that it is trying to find some third country that will accept him for removal, this Court should trust that it will be successful in doing so, and for that reason it is not necessary either to allow Mr. Aguilar or this Court to review the evidence that the government may have in its possession that would allow for verification of the government's unsupported and potentially unjustified hope. The government's response to Mr. Aguilar's discovery request is unperuasive as both a legal and factual matter.

As for the law, the government invites this Court to disregard the governing legal standard. That standard is plain. Where "specific allegations before the Court show reason to believe that the petitioner may, if the facts are fully developed, be able to demonstrate that he is entitled to relief, it is the duty of the court to provide the necessary facilities for an adequate inquiry." *Bracy v. Gramley*, 520 U.S. 899, 909 (1997) (quoting *Harris v. Nelson*, 394 U.S. 286, 300 (1969)). In his amended petition, Mr. Aguilar specifically alleged that he has been granted a

deferral of removal to Colombia on account of his fear of torture should he be returned there. (Dkt. #12 at 5 ¶ 18) And he has alleged that there is no statutory authorization for his removal to Argentina, Chile, or Peru (Dkt. #12 at 5–6 ¶ 19a), nor is there any reason to believe that any of these three countries have indicated a willingness to accept him for removal (Dkt. #12 at 6 ¶ 19b). Finally, he alleged that because none of these countries has indicated a willingness to accept him for removal, there is similarly no reason to believe that ICE will succeed in obtaining travel documents for those countries. (Dkt. #12 at 6 ¶ 20) If these assertions are true, then Mr. Aguilar may show an entitlement to relief. The government makes no effort to explain how Mr. Aguilar would not be entitled to relief even if these assertions were true. The government thus has advanced no legal reason why discovery should not be granted.

As for the facts, the government relies entirely on the assertions of Marielle Ceja, a supervisory detention and deportation officer at the Otay Mesa Detention Center in San Diego, California. (Dkt. #24 at 10 (relying on Dkt. #24-2)) The government says that Mr. Aguilar’s “claims are rebutted by the Ceja [*sic*] Dec.” (Dkt. #24 at 10) As such, the government contends, there is no need to provide the tools necessary for Mr. Aguilar or this Court to verify whether Mr. Aguilar’s claims are, in fact, rebutted by Ms. Ceja’s declaration.

But Ms. Ceja offers no supporting documentation along with her declaration. And a plain reading of Ms. Ceja’s declaration discloses that it rebuts *none* of the allegations in Mr. Aguilar’s amended petition. Ms. Ceja explains that Argentina and Chile have affirmatively declined to accept Mr. Aguilar for removal. (Dkt. #24-2 at 4 ¶ 20) Thus Ms. Ceja’s declaration actually *confirms*, rather than rebuts, Mr. Aguilar’s allegation that these countries will not accept him for removal. And with respect to the possibility of removal to Peru, all Ms. Ceja says is that ICE sent a “second request to Peru to accept” Mr. Aguilar on March 7, 2025, and that that “request remains pending.” (Dkt. #24-2 at 4 ¶ 21) (Ms. Ceja did not describe a *first* request to Peru.) In the same vein, Ms. Ceja explains that on July 30, 2025, ICE asked Mexico to accept Mr. Aguilar for removal, and that that “request remains pending.” (Dkt. #24-2 at 5 ¶ 25) Despite the fact that ICE’s four (or more) attempts to find a third country willing to accept Mr. Aguilar for

removal have so far met with either affirmative denials or radio silence, Ms. Ceja for some reason continues to believe that there is a “significant likelihood” that Mr. Aguilar “will be removed in the foreseeable future.” (Dkt. #24-2 at 5 ¶ 28) In sum, Ms. Ceja’s declaration rebuts none of the allegations in Mr. Aguilar’s amended petition.

Thus the government has left this Court with two options. The Court could conclude that the government has shown that denying Mr. Aguilar’s discovery request would be correct under the governing legal standard. In order to do so, however, this Court would necessarily have to credit the government’s lawyer’s characterization of Ms. Ceja’s declaration as amounting to a “rebuttal” of Mr. Aguilar’s allegations that is so strong as to show that even if his allegations are true, he is not entitled to relief. Mr. Aguilar has shown why it would be contrary to fact and law for this Court to arrive at that conclusion. On the other hand, the Court could instead apply the correct legal standard to Mr. Aguilar’s discovery request, treat the government’s lawyer’s contrary characterization with appropriate skepticism, and grant Mr. Aguilar’s discovery request. Mr. Aguilar respectfully suggests that the Court should see through the government’s rhetoric and provide him and itself the tools necessary to adjudicate Mr. Aguilar’s petition.

Respectfully submitted:

August 11, 2025.

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