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11 **UNITED STATES DISTRICT COURT**
12 **CENTRAL DISTRICT OF CALIFORNIA**

13 Leonel Navarrete Hernandez,) CASE NO.: 2:25-cv-05376-FWS-AGR
14)
15 Petitioner-Plaintiff,)
16)
17 v.) PETITIONER'S REPLY TO RESPONDENTS'
18) RESPONSE TO ORDER TO SHOW CAUSE
19)
20 Todd Lyons, Acting Director) Hearing Date: July 10, 2025
21 Immigration and Customs) Hearing Time: 10:00 a.m.
22 Enforcement;) Ctrm: 10D
23)
24 and) Honorable Fred W. Slaughter
25) United States District Judge
26 Ernesto Santacruz, Jr.,)
27 Los Angeles Field Office)
28 Acting Director, Immigration)
and Customs Enforcement,)
Enforcement and Removal)
Operations, and)
Respondents-Defendants.)
_____)

1 The Government's stated agreement not to remove Petitioner without a final
2 order of removal is inadequate given the facts. While aware that Petitioner did not
3 have a final removal order, Respondents unlawfully arrested and detained Petitioner
4 and moved him from Los Angeles to a border detention facility in Texas in an
5 apparent effort to physically remove him from the United States. (Pet'r Renewed
6 TRO Exhibit, Dkt. 9.2, Exhibit F, Dkt. 9.3 Exhibit G.) At the time of his arrest,
7 Petitioner informed the ICE agents that he had a judge's order, and the ICE agents
8 responded that the judge's order didn't matter, only the President's Orders
9 mattered. (Pet'r TRO Exhibits, Dkt. 4.2, Exhibits D.)

10 The Government's agreement not to remove Petitioner is also inadequate
11 given the Government's recent conduct in wrongfully removing individuals from
12 the United States, either to their home country in violation of a withholding order
13 issued by an immigration judge, or a third country without the opportunity to seek
14 Convention Against Torture (CAT) or statutory withholding of removal protection.
15 *See Noem v. Abrego Garcia*, 145 S. Ct. 1017, 1018 (2025) (where Government
16 removed Abrego Garcia to El Salvador despite the immigration judge's order
17 withholding Abrego Garcia's removal to El Salvador); *see also D.V.D. v. U.S. Dep't*
18 *of Homeland Sec.*, No. CV 25-10676-BEM, 2025 WL 1487238, at *2 (D. Mass.
19 May 23, 2025) (finding Government erroneously removed Guatemalan national
20 O.G.C. to a third country, Mexico, without due process).¹ In a recent case, *Melgar-*
21 *Salmeron v. Bondi*, Case No. 23-7792 (2nd Cir.), the Government wrongfully
22 removed Melgar-Salmeron from the U.S. after assuring the court it would not
23

24 ¹ *See also* the June 25, 2025 Letter from the Government Accountability Project,
25 Regarding Protected Whistleblower Disclosure of Erez Reuveni Regarding
26 Violation of Laws, Rules & Regulations, Abuse of Authority, and Substantial and
27 Specific Danger to Health and Safety at the Department of Justice, located at
28 <https://s3.documentcloud.org/documents/25982155/file-5344.pdf> (describing the
Government's intent to remove non-citizens from the United States even if it
involved violating a court order.)

1 remove him, and after a stay of removal had been issued. *See Melgar-Salmeron v.*
2 *Bondi*, 2nd Cir. Case No. 23-7792, Order, Dkt. Entry 49.1, June 24, 2025.

3 Petitioner remains at a high risk of removal from the U.S. because the
4 immigration judge has granted him CAT withholding of removal to El Salvador
5 which necessitates the issuance of a final removal order. The Government's
6 representation that it will not remove Petitioner "without a final order of removal"
7 is presumably purposefully phrased in a way that leaves open Petitioner's potential
8 removal from the United States in violation of his right to due process, including
9 his possible removal to a third country without notice or the opportunity to be
10 heard. The Government's wordsmithing does not assure the Court that it will not
11 wrongfully remove Petitioner from the U.S., especially in light of the only evidence
12 offered by the Government in this matter consisting of invalid Salvadoran arrest
13 warrants. The Government has not recognized the warrants are invalid and has not
14 responded to Petitioner's evidence that an immigration judge determined in an
15 evidentiary hearing that the warrants were invalid and formed the basis for the
16 immigration judge's decision to grant Petitioner CAT withholding of removal to El
17 Salvador.

18 Additionally, the Government's representation that it will not re-detain
19 Petitioner absent further changed circumstances is inadequate given the facts. The
20 Government's reference to "*further* changed circumstances" indicates the
21 Government believes there already have been some changed circumstances
22 warranting detention. (*See* Resp't Response to OSC, Dkt.18, p. 1 (emphasis
23 added).) This is not supported by the record. Second, the Government's
24 representation does not acknowledge that only changed "material" circumstances
25 considered within a pre-deprivation hearing might provide a lawful basis for re-
26 detention of Petitioner. *See Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1197 (N.D.
27 Cal. 2017), *aff'd sub nom. Saravia for A.H. v. Sessions*, 905 F.3d 1137 (9th Cir.
28

1 2018) (citing *Matter of Sugay*, 17 I. & N. Dec. 637, 640 (BIA 1981)). The
2 Government instead refers to “changed circumstances” without acknowledging the
3 materiality requirement and implies that re-detention could occur on an alternate
4 basis if a pre-deprivation hearing is provided. Petitioner has a Fifth Amendment
5 right to a pre-deprivation hearing where a materially changed circumstance would
6 be required to be established. Here, the Government implies there are two paths to
7 re-detention.

8 Petitioner requests that the Court permanently enjoin the Government from
9 re-detaining Petitioner for any purpose without affording what the Fifth
10 Amendment Due Process Clause requires, which is a pre-deprivation hearing where
11 a materially changed circumstance would be required to be established, and from
12 removing him from the District given that Petitioner was relocated from Los
13 Angeles to Texas, away from his attorneys, and for all purposes held
14 incommunicado without access to his attorneys for five days which frustrated his
15 right to due process. (Pet’r Renewed TRO Exhibit, Dkt. 9.2, Exhibit F.)

16 Petitioner requests that the Court permanently enjoin the Government from
17 removing Petitioner from the U.S. to El Salvador without an administratively final
18 removal order and then, only if the immigration judge’s decision granting Petitioner
19 CAT withholding of removal is reversed on appeal.

20 Petitioner further requests that the Court permanently enjoin the Government
21 from removing Petitioner to a third country without an administratively final
22 removal order and then, only if the Petitioner is afforded the opportunity to seek
23 Convention Against Torture or statutory withholding of removal protection and to
24 seek protection from chain refoulement to El Salvador vis a vis the third country.

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1 Petitioner respectfully requests the Court award Petitioner his costs and
2 reasonable attorneys' fees in this action under the Equal Access to Justice Act, as
3 amended, 5 U.S.C. § 504 and 28 U.S.C. § 2412, and on any other basis justified
4 under law.

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6
7 Dated: July 3, 2025

Respectfully submitted,

8 s/ Jean Reisz
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on July 3, 2025, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send notification of such filing by e-mail to counsel of record.

s/ Jean Reisz

Jean Reisz

Counsel for Petitioner