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UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

WESTERN DIVISION

JOAQUIN E. VILLALTA SALAZAR,
Petitioner-Plaintiff,

v.

ROBBINS, et al,
Respondents-Defendants.

Case No. 2:25-cv-05473-VBF-MAR

REPLY TO OPPOSITION TO TRO

INTRODUCTION

In his request for a preliminary injunction, Petitioner Joaquin Villalta Salazar ("Mr. Villalta" or "Petitioner") set forth the legal and factual reasons to compel this Court to enjoin Respondents from removing, refouling, or sending him to any country and from transferring him to any facility outside of the United States not built or designed for civil detention of non-citizens. Moreover, Petitioner asked the Court to direct Respondents to release him from unlawful custody arising from the re-arrest and re-detention that they effectuated without legal justification on June 14, 2025.

In response, the Government argues against this action, but does not provide legal or factual reasons to refute the irreparable harm arising from unlawful removal and refoulment and from a continuing unlawful custody. Moreover, the Government does not provide any factual or legal reason to keep Petitioner detained under a legitimate basis.

ARGUMENT

I. Petitioner Will Likely Prevail And Will Be Irreparably Harmed If This Court Does Not Enjoin Respondents From Causing Petitioner to Be Removed To Any Country or Facility Outside of the United States

The Government argues that Mr. Villalta's "claim for preliminary injunctive relief barring removal is moot and unnecessary." Gov't Opp. at 6. As a legal matter, this assertion actually supports Petitioner's request for an injunction. "The

Defendants cannot be harmed by an order enjoining an action they will not take." *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012)

Moreover, there most reasonable references from the attached exhibits is that the Respondents likely will violate the administrative stay, and if they do, the resulting harm will be torture or death. The Government notably does not cite to any fact or law to refute this claim. It does not, because it cannot. For the reasons set forth below, Petitioner reiterates his request for the Court to enjoin Respondents from effectuating the removal order to El Salvador, refouling or sending him to a third country, and transferring him to Guantanamo Bay or any other U.S. military facility outside of the fifty U.S. states. Even though the first two actions already, in theory, are barred by the February 2, 2025 BIA order and an April 18, 2025 district court nationwide injunction in D.V.D. v. DHS, Exhibit G, the DHS has repeatedly violated administrative stays and the third-country injunction when removing other similarly-situated people.

First, the accompanying declaration from the Deportation Officer Johana Jimenez never in fact asserts, promises, or represents that her agency will not violate the BIA stay order. See Document 9-1. That omission is critical in the current environment because Respondents have not affirmatively represented their intent to abide by that administrative order.

Second, the BIA order staying removal is only an administrative order barring the return of Petitioner to El Salvador. Since March 2025, in violation of other administrative stays, the DHS has effectuated the refoulment of non-citizens by sending them to third countries. On April 18, 2025, Judge Murphy from the District of Massachusetts issued a nation-wide order enjoining the DHS from undertaking this action after plaintiffs alleged that the DHS violated their administrative stays. Exhibit G. Plaintiff M.M. had an order from an IJ withholding her removal to Honduras. On March 7, 2025, ICE informed her that she was "on a list of people who would be deported immediately" to an unknown country. Id. at 8. Plaintiff O.C.G.—who is a client of the Florence Project—was unlawfully taken out of the country. Id. at 9. O.C.G. established that he was afraid of returning to Guatemala because he would face likely persecution. Id. Within days of the IJ granting his withholding of removal , the DHS took O.C.G. to Mexico, and that country in turn refouled him to Guatemala "where he remains in hiding." Id. at 9; Exhibit S at 2. On May 22, 2025, in violation of this class action injunction and independent administrative stays, the DHS again "rac[e] to get six class members onto a plane to unstable South Sudan clearly in breack of the law and this Court's order." Exhibit I. After being found in violation of the court's order, rather than returning the non-citizens, the "Trump administration appeals Murphy's order to the Supreme Court, arguing that the judge was interfering with

the executive's branch's role to carry out immigration policy and conduct international deals." Exhibit J at 8.

Since March 2025, Respondents have engaged in repeated actions against similarly-situated non-citizens—some who in theory had even more protection that Petitioner—and caused them to be removed from the United States to their home countries or third countries where they are not safe.

Third, Petitioner is also at risk of being sent to a U.S. military facility on Guantanamo Bay. On June 14, 2025, the El Paso Times reported on how Amnesty International released a report detailing that "[d]etained migrants and immigrations" at the El Paso processing center where Petitioner is currently housed, Exhibit R, "face widespread human rights violations, including systematic mistreatment, arbitrary detention, as well as lack of due process and access to legal resources, according to a report by Amnesty International released Wednesday." Exhibit P at 1. Among the human rights violations, Amnesty International reported that a Venezuelan man detained at this facility "was instead sent to Guantanamo Bay in Cuba and transferred to a detention center in South Texas before being sent to El Salvador." Id. at 4.

The risk of non-citizens who are housed in El Paso being sent to Guantanamo Bay is only heighted. According to the Washington Post, on June 11, 2025, under Exhibit Q, on June 11, 2025, the Washington Post reported on the

DHS plans to "transfer of potentially thousands of foreigners who are in the United States illegally to the U.S. military base in Guantanamo Bay, Cuba, starting as early as this week. . . ." Id. at 1. The article reported that number to be as high as 9,000 non-citizens. Id.

Fourth, the only reasonable inference from ICE transferring Petitioner to El Paso Detention Center is that Respondents have an imminent plan to take him out of the country, whether it be to El Salvador, a third country, Guantanamo Bay, or a new location that violates the spirit, if not letter, of the existing administrative stay and class action injunction. When ICE previously detained Petitioner, it was in Adelanto, California. Declaration 9-1; Exhibit S at 3. By contrast, ICE elected to transfer him to a different facility even though a number of detention facilities exist in California and Washington State, where every other detained client from California is being held. Exhibit S at 3. El Paso Processing Center is a detention center, but is also a staging area, which means it is the place where non-citizens are boarded onto planes and sent outside of the country Id. Non-citizens who are housed in El Paso are usually boarded on planes and sent to other countries. Id. at 4. According to Tom Cartwright, an individual who tracks the activities of ICE Air, from June 1 to June 16, ten flights have left El Paso and arrived in Guatemala, El Salvador, and Honduras. Exhibit S at 4 (detailing the ten flights' departure dates, planes, flight information, and arrival and departures). Mr. Cartwright stated

"that there is no fixed pattern to the dates [of the ICE Air deportation flights], and unfortunately no transparency to how long people may be held, but it does seem it can happen reasonably quickly once the removal decision is made." Exhibit S at 4.

Fifth, lastly, the Government argues that any court order is "moot and unnecessary." Gov't Opp. at 6. For the reasons set forth above, that is not true. Indeed, on June 9, 2025, the Ninth Circuit Court of Appeals granted an emergency motion filed by undersigned counsel that stayed the order of removal for another man who is similarly situated to Petitioner. Exhibit M; Exhibit S at 3. That individual only had an IJ order staying his removal after being granted CAT. Exhibit S at 3. In light of Respondents' actions detailed above, an administrative stay is not stopping them from violating stays and court orders to take non-citizens out of the country.

For these reasons, Petitioner is likely to prevail on the merits of his claim that if Respondents remove him to El Salvador, refoul him to a third country, or transfer him to Guantanamo Bay. All of those actions violate his constitutional rights to due process. Indeed, the Government did not defend any of those actions comporting with legal or constitutional standards. "It is well established that the deprivation of constitutional rights 'unquestionably constitutes irreparable injury.'" *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012) (quoting *Elrod v. Burns*, 427 U.S. 347, 373, 96 S. Ct. 2673, 49 L. Ed. 2d 547 (1976))

Moreover, the irreparable harm from Respondents causing Mr. Villalta to be removed, refouled, or transferred to an unsafe facility not designed or intended for civil detention purposes is imminent and dire. The current administration is not honoring administrative stays. "Blanket assurances offer no protection against either torture by non-state actors or chain refoulement, whereby the third country proceeds to return an individual to his country of origin." *D.V.D. v. U.S. Dep't of Homeland Sec.*, No. CV 25-10676-BEM, ___ F. Supp. 3d ____, 2025 WL 1142968, at *22 (D. Mass. Apr. 18, 2025). If Respondents cause Petitioner to be sent outside of the country, he is in dire danger. As acknowledged by the deportation officer, Petitioner has filed a motion to reopen seeking protection from likely persecution and torture in El Salvador. If Respondents take him from this country before the agency adjudicates that request, " the threatened harm is clear and simple: persecution, torture, and death. It is hard to imagine harm more irreparable." Id. at *23.

II. Petitioner Will Likely Prevail on His Claim That His Re-Detention Is Unlawful

In his ex parte application for injunctive relief, Petitioner argued that the DHS has to give legitimate reasons related to the fact that he is a danger to the community or a flight risk before red-etaining him. The Government did not refute

those cases, but instead offered a number of reasons as to why ICE properly arrested him:

1. The COVID-19 pandemic is over and so the reason for his release from custody "is no longer applicable". Gov't Opp. at 2
2. Petitioner was arrested in September 2024, "which is what lead to his being taken into custody on June 14th [2025]." Gov't Opp. at 2.
3. And the deportation officer clamed that the re-arrest was "due to the protests and civil unrest in downtown Los Angeles, California." Declaration 9-1.
4. And Mr. Villalta reported then when he was re-arrested the ICE officers told him it was because "it is what Trump wants." Exhibit E at 3.

First, none of these four reasons relate to changed circumstances that show that Mr. Villatla is a flight risk or a danger to the community. The closest one is the Government's argument that Petitioner's arrest on September 2024 shows a danger. But Petitioner's wife, Sandra Luz Seguro Maldonado, refutes this. She submitted a declaration attesting that the incident was a misunderstanding, there is no history of physical or emotional abuse, and she never sought to prosecute him because it was not abuse. Exhibit N. She does not fear any harm from him, and is greatly injured by ICE's actions that took her husband and companion from her. Exhibit N. Petitioner is a caretaker to his wife, his six step-children, and ten

grandchildren. Exhibit N. Petitioner regularly babysits his grandchildren, who live next door to them. Exhibit N. He also takes care of his elderly, disabled mother. Exhibit N. There is no showing that he is a danger to the community when he is an integrated, reliable, and loving member of a large family. Exhibit N.

Second, it is telling that none of the four given reasons are consistent with each other. In other contexts, courts have observed that "pretext was demonstrated by not only shifting but also conflicting, and at times retracted, justifications for adverse treatment." *Johnson v. Nordstrom, Inc.*, 260 F.3d 727, 733 (7th Cir. 2001) (citations omitted).

Third, more important, none of the four shifting, changing reasons actually relate to flight risk or danger to the community. On June 14, 2025, the Northern District of California issued a preliminary injunction in Rodriguez Diaz v. Kaiser, 3:25-cv-05071. Exhibit F. Mr. Rodriguez Diaz had also received a text asking him to report on June 14 and June 15, despite reporting routinely to ICE for 17 months prior. Id. at 2. There, the Court enjoined ICE from taking him into custody because "[t]here is a risk of erroneous deprivation [of liberty] that the additional procedural safeguard of a pre-detention hearing would help guard against." Id. at 5.

In *INS v. Doherty,* 502 U.S. 314, 330, 112 S. Ct. 719, 116 L. Ed. 2d 823 (1992), the Supreme Court recognized that "[e]ven discretion . . . has its legal

limits." 502 U.S. at 330 (Scalia, J., concurring). Of note, Justice Scalia noted that even when the Attorney General has discretion in reopening proceedings, the Attorney General cannot deny relief "simply because [the Attorney General] did not wish to provide [the non-citizen] the relief of withholding." *Id.* at 334. When the government does not give any reason how and when it will exercise its discretion, this discretionary authority becomes "a sham and a snare." 502 U.S. at 337 (Scalia, J., concurring).

And that is what happened to Mr. Villalta. Yes, DHS can lawfully detain him. But also, the DHS can detain him without legal authority, or in an abuse of the legal authority Congress delegates to it. Mr. Villalta dutifully reported 40 times and wore his ankle bracelet as a condition for his release. He even walked into the Lion's Den on June 14, 2025, knowing the real risk that he would be taken as others in Los Angeles had been. But he upheld his bargain and trusted that the process would be lawful. It was not. The only reasonable inference from the shifting explanations provided above is that ICE re-arrested and re-detained Mr. Villalta without legal case. In this situation, ICE's re-arrest and re-detention did not comport with the relevant regulations and statutes that permit them to deprive Mr. Villalta of his liberty.

At a minimum, the established facts and the Government's failure to refute them is enough to present serious questions to warrant injunctive relief in the form

of releasing Mr. Villalta from custody unless and until the DHS first presents evidence to establish the lawful reasons to re-arrest him.

Moreover, keeping Mr. Villalta in unlawful custody is irreparable harm. "it is well established that the deprivation of constitutional rights 'unquestionably constitutes irreparable injury.'" *Melendres*, 695 F.3d at 1002 (quoting *Elrod,* 427 U.S. at 373)

III. The Government's Reasons for Impugning Mr. Villalta's Character And Chances of Prevailing in Obtaining Immigration Relief Are Without Factual and Legal Support

The Government offers other reasons to cast doubt on Mr. Villalta's character and chances of success in immigration Court. All are refuted.

First, the Government claims that Mr. Villalta will not prevail in his motion to reopen. As set forth in counsel's declaration, Exhibit S at 1, that is not true. In support, recent BIA decisions granting relief to those similarly-situated to Mr. Villalta are at Exhibit K & L.

Second, the Government also claims that Mr. Villalta did not bond because he does not deserve it. But that too I refuted by Exhibit O that gives detailed statistics from 2023 that shows that in some detention centers, only 3% of bond requests were even granted. Exhibit O at 2. The reality is that the Supreme Court has made getting bonds very difficult, immigration judges vary greatly on whether they will grant them or not, and pro se, detained litigants have an even more

difficult time in presenting the equities and legal arguments to overcome those hurdles.

CONCLUSION

For good cause, Petitioner requests that the Court (1) enjoin Respondents from removing, refouling, or transferring Petitioner to any country or any facility outside of the 50 states; (2) direct Respondents to release Respondent from his current custody, arising from his re-arrest and re-detention on June 14, 2025.

Dated: June 19, 2025

Respectfully submitted,

/s/ Kari Hong
Kari Hong
Attorney for Petitoner
Joaquin Villalta-Salazar

VERIFICATION PURSUANT TO 28 U.S.C. 2242

I am submitting this verification on behalf of the Petitioner because I am Petitioner's attorneys and also have knowledge based on information and belief. I hereby verify that the factual statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Executed on this June 19, 2025, in Missoula, MT.

/s/ Kari Hong
Kari Hong
Attorney for Petitioner