UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
Laredo Division

ISRAEL ADONAY SAGASTIZADO SANCHEZ, *Petitioner*, v. KRISTI NOEM, *et al.*, *Respondents.*	Civil Action No. 5:25-cv-104

Reply Memorandum in Support of
Motion for Preliminary Injunction

Petitioner Israel Adonay Sagastizado Sanchez, by counsel, pursuant to Fed. R. Civ. P. 65(a), hereby submits this reply memorandum in support of his Motion for Preliminary Injunction (Dkt. No. 20), and in support thereof, respectfully represents as follows:

Procedural History

1. Petitioner, a native and citizen of El Salvador, entered the United States without inspection. Some time thereafter, he was apprehended by U.S. Immigration and Customs Enforcement ("ICE"). Petitioner was served with a Notice to Appear on June 11, 2018. *See* Ex. A (Notice to Appear). The Notice to Appear designated El Salvador as the only country of removal. *Id.*

2. Petitioner filed an I-589 application for asylum and withholding of removal on July 12, 2021. *See* Ex. B (filestamped I-589 application, first page only).

3. On February 22, 2024, the Immigration Judge ("IJ") denied Petitioner's application for asylum, ordered Petitioner removed to El Salvador, and granted withholding of removal as to El Salvador. Dkt. No. 1-1. The IJ's order does not indicate why Petitioner's asylum application

was denied, but it is reasonable to suppose that it was because of failure to apply within one year of arrival in the United States, *see* 8 U.S.C. § 1158(a)(2)(B); withholding of removal has no such time restriction, *see* 8 U.S.C. § 1231(b)(3). At no time during the proceedings before the IJ was Mexico named as a possible country of removal.

4. Prior to this year, an order of withholding of removal practically guaranteed that the recipient would be allowed to remain in the United States indefinitely. *Johnson v. Guzman Chavez*, 594 U.S. 523, 552-53 (2021) ("Studies have also found that, once withholding-only relief is granted, the alien is ordinarily not sent to another, less dangerous country. Rather, the alien typically remains in the United States for the foreseeable future. . . . only 1.6% of noncitizens granted withholding-only relief were ever actually removed to an alternative country." (Breyer, J., dissenting)).[1]

5. For this reason, on May 6, 2024, Petitioner was released from ICE custody on an Order of Supervision pursuant to 8 U.S.C. § 1231(a)(3). Dkt. No. 7-4.

6. On May 6, 2025, Petitioner's Order of Supervision was revoked and he was re-detained, in order to remove him to Mexico. Dkt. No. 7-5. Several months went by without Respondents making any apparent progress on that removal.

7. This action was filed on June 25, 2025. Dkt. No. 1.

8. On July 17, 2025, Petitioner filed a Motion to Reopen with the Immigration Court, for the purposes of seeking withholding of removal to Mexico, along with an emergency motion for stay of removal. *See* Ex. C (Emergency Motion to Reopen),[2] Ex. D (Emergency Motion to

---

[1] This 1.6% figure includes, for example, dual nationals who are only granted withholding of removal as to one of their countries of citizenship.

[2] Noncitizens such as Petitioner are referred to as "Respondent" in Immigration Court proceedings. Petitioner's various motions before the Immigration Court and the Board of Immigration Appeals also included several hundred pages of evidence supporting his claim to fear of persecution in

Stay). On July 18, 2025, the IJ granted a temporary stay of removal. *See* Ex. E (Order of the IJ, July 18, 2025).

9. On August 1, 2025, the IJ denied the Motion to Reopen and dissolved the temporary stay. *See* Ex. F (IJ orders dated Aug. 1, 2025). The only reason given by the IJ was as follows: "Removal to a third country is governed by the provisions of INA Section 241(b). In addition, issues raised in the motion to reopen are currently subject to litigation in various federal courts. The motion to reopen is denied." *Id.*

10. On August 15, 2025, Petitioner, by counsel, expressed fear of removal to Mexico and requested a Reasonable Fear Interview ("RFI") to ICE. *See* Dkt. No. 16-1 at ¶ 3; Dkt. Nos. 16-2, 16-3.

11. On August 19, 2025, Petitioner filed a Motion to Reconsider with the IJ. *See* Ex. G. The Motion to Reconsider argued that "[t]he IJ held that the Immigration Court may not, or need not, grant such a Motion to Reopen because the issues 'are currently subject to litigation in various federal courts.' But in that very litigation, before the federal district court in Texas, the U.S. Department of Justice is arguing that Respondent may only bring his claim for withholding of removal before an IJ. Accordingly, the IJ's ruling denying Respondent's Motion to Reopen—aside from creating an impossible catch-22 wherein no adjudicator has jurisdiction to consider Respondent's request for withholding of removal to Mexico—contradicts the official legal position of the Attorney General." *Id.* at 5 (internal citations omitted).

12. On August 20, 2025, the IJ denied the Motion to Reconsider. *See* Ex. H (Immigration Judge order dated Aug. 20, 2025). The sole reason given by the Immigration Judge was, "The Respondent was considered for withholding of removal, and relief was granted. The

---

Mexico, not included here in the interests of brevity.

statutory scheme contemplates third country removal by the Department [of Homeland Security]. The court finds no error of law or fact. The motion to reconsider is denied." *Id.*

13. After receiving the referral from ICE, U.S. Citizenship and Immigration Services ("USCIS") Petitioner's RFI interview was carried out on August 29, 2025. *See* Dkt. No. 16-1 at ¶ 4; Dkt. No. 16-6. Petitioner, by counsel, then requested that an IJ review his denied RFI. *See* Dkt. No. 16-5.

14. Also on August 29, 2025, Petitioner appealed the IJ's decisions denying his Motion to Reopen to the Board of Immigration Appeals ("BIA"). *See* Ex. I (filestamped EOIR-26). The BIA has yet to issue a briefing schedule on the appeal.

15. On September 8, 2025, Respondents confirmed that they intended to remove Petitioner to Mexico on September 12, 2025. Dkt. No. 15.

16. Petitioner moved this Court for a Temporary Restraining Order on September 9, 2025. Dkt. No. 16. On September 10, 2025, this Court entered a 14-day Temporary Restraining Order, enjoining Respondents from removing Petitioner prior to carrying out the IJ review of the denied RFI. Dkt. No. 18.

17. Also on September 10, 2025, Petitioner moved the BIA for an emergency stay of removal. *See* Ex. J (file-stamped BIA Emergency Motion for Stay of Removal). The BIA has yet to rule on the stay of removal.

18. Petitioner filed his Motion for Preliminary Injunction on September 12, 2025, Dkt. No. 20. Respondents filed their opposition thereto on September 22, 2025. Dkt. No. 21.

19. This Court ordered supplemental briefing to be filed by September 26, 2025. Dkt. No. 23.

Argument

I. Although Respondents are correct that 8 C.F.R. § 1208.31 does not apply to Petitioner on its face, Petitioner nonetheless has a due process right to Immigration Judge review of his denied fear interview to Mexico.

The withholding-of-removal statute is clear, mandatory, and inescapable: "Notwithstanding paragraphs (1) and (2)" – the third-country-removal provisions – "the Attorney General may not remove an alien to a country if the Attorney General decides that the alien's life or freedom would be threatened in that country because of the alien's race, religion, nationality, membership in a particular social group, or political opinion." 8 U.S.C. § 1231(b)(3)(A). The only exceptions to withholding of removal are listed in subsection (b)(3)(B), and none apply here. The "notwithstanding paragraphs (1) and (2)" preface to the withholding-of-removal statute makes clear that it supersedes the third-country-removal provisions, 8 U.S.C. § 1231(b)(1), (b)(2).

As the Fourth Circuit explained in *Guzman Chavez v. Hott*, 940 F.3d 867, 879 (4th Cir. 2019), *rev'd on other grounds*, 594 U.S. 523 (2021), "precisely because withholding of removal is country-specific, as the government says, if a noncitizen who has been granted withholding as to one country faces removal to an alternative country, then she must be given notice and an opportunity to request withholding of removal to *that* particular country." (Emphasis in original). *See also Andriasian v. INS*, 180 F.3d 1033, 1041 (9th Cir. 1999); *Kossov v. INS*, 132 F.3d 405, 408-09 (7th Cir. 1998); *El Himri v. Ashcroft*, 378 F.3d 932, 938 (9th Cir. 2004); *cf. Protsenko v. U.S. Att'y Gen.*, 149 F. App'x 947, 953 (11th Cir. 2005) (per curiam) (permitting removal to third country only where individuals received "ample notice and an opportunity to be heard").[3]

---

[3] Indeed, the Solicitor General's office acknowledged as much earlier this year in oral argument before the Supreme Court:

> MR. McDOWELL: . . . . We do think we have the legal authority to [carry out third-country removal], with the following caveat: We would have to give the person notice of the third country and give them the opportunity to raise a

Now at issue are the procedures used by the government to carry out the statutory command. The parties seem to agree that if this were a reinstatement-of-removal case under 8 U.S.C. § 1231(a)(5), then the Reasonable Fear Interview regulation, 8 C.F.R. § 1208.31, would apply. But after reviewing Respondents' legal memorandum (Dkt. No. 21 at 4-6) and upon further research, Petitioner agrees with Respondents that a subsequent third-country removal after the first-country removal has been withheld does not count as a "reinstatement" under 8 U.S.C. § 1231(a)(5) because there has been no unlawful *re*-entry into the United States after a prior removal. 8 C.F.R. § 1208.31 therefore does not *on its face* apply to Petitioner, because he is not an "alien ordered removed under [8 U.S.C. § 1228(b)]" – a provision applying only to noncitizens convicted of aggravated felonies – "or whose deportation, exclusion, or removal order is reinstated under [8 U.S.C. § 1231(a)(5)]." 8 C.F.R. § 1208.31(a).

Accordingly, *no* provision in the Code of Federal Regulations directly covers the adjudication of fear-based claims to withholding of removal in the third-country context. Petitioner maintains that the procedure set forth in 8 C.F.R. § 1208.31, the Reasonable Fear Interview with IJ review, is the most directly analogous to the situation at bar in which a prior removal order is later effectuated in a manner and at a time not originally contemplated when the removal order was entered. Indeed, another similar regulation also provides for IJ review of denied fear interviews: 8 C.F.R. § 1003.42, providing for IJ reviews of denied Credible Fear Interviews, where a noncitizen has recently entered the country unlawfully and is subjected to the expedited removal process under

---

> reasonable fear of torture or persecution in that third country. If they raise that reasonable fear, the withholding-only proceedings would simply continue. They would just focus on the new country, rather than the original one.

Oral Argument Tr., *Riley v. Bondi*, No. 23-1270 (S. Ct., March 24, 2025), 32-33, *available at* https://www.supremecourt.gov/oral_arguments/argument_transcripts/2024/23-1270_c0n2.pdf.

8 U.S.C. § 1225(b)(1). Undersigned counsel is not aware of *any* regulation under which USCIS conducts a fear-of-removal screening interview that is not then subject to review by an IJ.

On the first prong of *Mathews v. Eldridge*, 424 U.S. 319 (1976), the private interest at stake, due process requires that the same procedures be available to Petitioner as are available to noncitizens apprehended at the border seeking relief from expedited removal or from reinstatement of removal, or aggravated felons. Again, Petitioner has lived in the United States lawfully for a year on an Order of Supervision. There is no reason he would be entitled to *less* due process than someone whose removal is being reinstated under 8 U.S.C. § 1231(a)(5) because he committed the federal felony of illegally reentering the United States, 8 U.S.C. § 1326; or *less* due process than someone who is being removed on the basis of an aggravated felony, 8 U.S.C. § 8 U.S.C. § 1228(b). *See DHS v. Thuraissigiam*, 591 U.S. 103, 107 (2020) (contrasting the greater due process rights of "aliens who have established connections in this country" with the lesser due process rights of "an alien at the threshold of initial entry").

If Petitioner had been apprehended while illegally entering the United States and the government then named Mexico as an alternate country of removal, he indisputably would have had a right to IJ review of his denied Credible Fear Interview. 8 C.F.R. § 1003.42. If Mexico had been named as an alternate country of removal on Petitioner's Notice to Appear, Petitioner would not even have been required to go through the fear-interview procedure at all, he could have simply filed an application for withholding of removal directly to the IJ. 8 C.F.R. § 1240.1(a)(1)(iii). And if Petitioner is removed from the United States today and illegally reenters tomorrow, he indisputably would have a right to IJ review of his denied Reasonable Fear Interview as to Mexico or any fourth or fifth country Respondents might name in the future. 8 C.F.R. § 1208.31(e). Petitioner has no less due process rights today than he would in those scenarios. Put differently, Respondents cannot cut

off Petitioner's due process rights by waiting a year to spring Mexico as a surprise alternate country of removal.

On the second prong of the *Mathews* test, review by an Administrative Law Judge would provide additional probative value over an interview with a non-judicial officer resulting in a check-the-box form providing no reasons; this is why the government affords IJ review in every other analogous circumstance. The procedures applied here to date do not meet the constitutional minimum requirements of notice and opportunity to be heard. Dkt. No. 21-4 shows a check-the-box form which only shows Petitioner the results of his interview, but gives no reasoning for why his fear claim was denied. In contrast, in a normal RFI, the asylum officer creates (and the noncitizen is given) "a written record of his or her determination, including a summary of the material facts as stated by the applicant, any additional facts relied on by the officers, and the officer's determination of whether, in light of such facts, the alien has established a reasonable fear of persecution or torture." 8 C.F.R. § 208.31(c). The IJ reviewing the matter (and the noncitizen) is provided with "[t]he record of determination, including copies of the Notice of Referral to Immigration Judge, the asylum officer's notes, the summary of the material facts, and other materials upon which the determination was based[.]" 8 C.F.R. § 208.31(g). *See, e.g.*, *Vertical Broad., Inc. v. Town of Southampton*, 84 F. Supp. 2d 379, 391 (E.D.N.Y. 2000) ("Procedural due process requirements are generally satisfied where the denial of plaintiff's request is preceded by notice and a hearing and followed by a written explanation."); *Rosa v. Thaler*, 2011 WL 318126, at *11 (W.D. Tex. Jan. 31, 2011) ("Rosa appears to have been provided all the procedural protections required by the Due Process Clause: notification, meaningful opportunities to submit evidence, explanations for his denials, and notification of his next review dates.").

As the Western District of Washington recently explained, "a noncitizen must be given

sufficient notice of a country of deportation that, given his capacities and circumstances, he would have a reasonable opportunity to raise and pursue his claim for withholding of deportation. The guarantee of due process includes the right to a full and fair hearing, an impartial decisionmaker, and evaluation of the merits of his or her particular claim." *Nguyen v. Scott*, 2025 WL 2419288, at *18 (W.D. Wash., Aug. 21, 2025), citing, *inter alia*, *Aden v. Nielsen*, 409 F. Supp. 3d 998, 1009 (W.D. Wash. 2019). Indeed, the procedures that the District Court in *Nguyen* found necessary were significantly more robust than the procedure that Petitioner seeks here: while the *Nguyen* court held that "removal proceedings must be reopened so that a hearing can be held," *id.*, Petitioner here merely seeks IJ review of his denied fear interview, following which he would be allowed to file a full application for withholding of removal only if he *passes* the IJ review. *See* Dkt. No. 21-2 at 2; cf. 8 C.F.R. § 1208.31(g)(2).

Finally, on the third *Mathews* prong, burden to the government, Respondents cannot complain of excessive burden in extending to Petitioner a procedure that already exists in so many other contexts, and that per regulation must take place within a mere ten days. 8 C.F.R. § 1208.31(g) ("In the absence of exceptional circumstances, such review shall be conducted by the immigration judge within 10 days of the filing of the Form I-863, Notice of Referral to Immigration Judge, and the complete record of determination with the immigration court.").

For the foregoing reasons, although Respondents are correct that 8 C.F.R. § 1208.31 does not apply to Petitioner on its terms, due process requires that he be afforded the same procedural protections set forth in that regulation. If an aggravated felon would be given an IJ review of a denied RFI, if an individual who illegally reentered the United States after prior removal would be given an IJ review of a denied RFI, if an "alien at the threshold" would be given an IJ review of a denied Credible Fear Interview, then so must Petitioner.

II. This Court should not read substance into the Supreme Court's stay of the classwide preliminary injunction in *D.V.D. v. DHS*.[4]

On the merits, Respondents would have this Court place dispositive weight on the Supreme Court's stay of the classwide preliminary injunction in *D.V.D. v. DHS*, 145 S. Ct. 2153 (June 23, 2025). But the Supreme Court majority chose not to provide any reasoning for its entry of a stay, and the dissent suggests that the reason may well have been dissatisfaction with the class-action vehicle, an issue not relevant to this case. *Id.*, 145 S. Ct. at 2160-61. To read substance into the stay decision would be pure speculation, and the three-sentence opinion of the High Court cannot carry all the water that Respondents seek to pour into it. *See also Nguyen*, 2025 WL 2419288, at *22 ("The Supreme Court did not decide *D.V.D.* on the merits, nor did it even necessarily rule on the class's likelihood of success on its due process and APA claims."), citing *Merrill v. Milligan*, 142 S. Ct. 879, 879 (2022) (Kavanaugh, J., concurring) ("The stay will allow this Court to decide the merits in an orderly fashion . . . [t]he Court's stay order is not a decision on the merits."). As *Nguyen* explained, "This Court cannot ascertain from the Supreme Court's emergency order whether it found the government likely to succeed on its jurisdictional or substantive claims. This distinction is especially important in this case, where one of the government's primary arguments—that the *D.V.D.* court had no power to enter *classwide* injunctive relief—would have no bearing on the merits of individual habeas petitions." 2025 WL 2419288, at *23.

On the jurisdictional issue, since there is no "final judgment on the merits of an action," there is no preclusive effect as a matter of res judicata to bind the litigants in this case. "Under res judicata, a final judgment on the merits of an action precludes the parties or their privies from relitigating issues that were or could have been raised in that action." *Houston Pro. Towing Ass'n v. City of*

[4] The parties agree that Petitioner is a classmember in the *D.V.D. v. DHS* litigation pending before the District of Massachusetts and the U.S. Court of Appeals for the First Circuit.

Houston, 812 F.3d 443, 447 (5th Cir. 2016), quoting *Allen v. McCurry*, 449 U.S. 90, 94 (1980). Res judicata requires, *inter alia*, that "the prior action was concluded by a final judgment on the merits[.]" *Id.* Likewise, collateral estoppel requires "a valid and final judgment[.]" *Stripling v. Jordan Prod. Co., LLC*, 234 F.3d 863, 868 (5th Cir. 2000). For this reason, the *D.V.D.* preliminary injunction does not bar this Court from hearing Petitioner's claim as a matter of law.

Since the *D.V.D.* case remains pending and has not resulted in a final judgment, Respondents' best argument is for abstention: that, as one court found, "[b]asic principles of comity and judicial economy" militate against this Court taking jurisdiction over the matter. *I.V.I. v. Baker*, 2025 WL 1519449, at *2 (D. Md., May 27, 2025), citing *Pacesetter Sys., Inc. v. Medtronic, Inc.*, 678 F.2d 93, 94-95 (9th Cir. 1982). But as the Ninth Circuit explained in *Pacesetter Systems*, "this 'first to file' rule is not a rigid or inflexible rule to be mechanically applied, but rather is to be applied with a view to the dictates of sound judicial administration." 678 F.2d at 95. To the contrary, "[t]he Supreme Court has emphasized that the solution of these problems involves determinations concerning wise judicial administration, giving regard to conservation of judicial resources and comprehensive disposition of litigation, and that an ample degree of discretion, appropriate for disciplined and experienced judges, must be left to the lower courts." *Id.*, quoting *Kerotest Manufacturing Co. v. C-O-Two Fire Equipment Co.*, 342 U.S. 180, 183-84 (1952).

The Fifth Circuit also recognizes that the "first-to-file" rule is one subject to judicial discretion, that "rests on principles of comity and sound judicial administration," *Cadle Co. v. Whataburger of Alice, Inc.*, 174 F.3d 599, 603 (5th Cir. 1999). Since it is a prudential rule, not a mandatory rule, "[m]echanical application of the first-to-file rule is not required on every occasion and may very well be inappropriate in specific instances." *Truinject Corp. v. Nestle S.A.*, 2020 WL 6781578, at *2 (E.D. Tex. Nov. 18, 2020). The Fifth Circuit recognizes that the first-to-file rule need

not be applied where "compelling circumstances" exist. *Twin City Ins. Co. v. Key Energy Servs., Inc.*, 2009 WL 1544255, at *4 (S.D. Tex. June 2, 2009), quoting *Mann Manufacturing, Inc. v. Hortex, Inc.*, 439 F.2d 403, 407 (5th Cir. 1971). "Courts may exercise their discretion and decline application of the rule in light of 'compelling circumstances.'" *Hart v. Donostia LLC*, 290 F. Supp. 3d 627, 633 (W.D. Tex. 2018). In addition, as the Eastern District of Texas noted, "the first-to-file rule does not comport neatly with the class-action device." *In re Toyota Hybrid Brake Litig.*, 2020 WL 6161495, at *7 (E.D. Tex. Oct. 21, 2020).

In sum, Respondents cannot show that this Court is *prohibited* from entering the preliminary injunction sought by Petitioner; their best argument is for prudential abstention. But there is strong reason for this Court to find compelling circumstances in this case sufficient to overcome the concededly important interests in comity and judicial economy. Without this Court's intervention, Petitioner's deportation to Mexico is imminent, *see* Dkt. No. 15. As explained above and in his opening memorandum, Dkt. No. 20 at 6, Petitioner fears persecution in Mexico, but he also fears that Mexico will quickly send him on to El Salvador (chain refoulement), where it has already been judicially determined that he *will* be persecuted. Once Petitioner is removed to Mexico, irreparable harm may occur in that this Courts may lack jurisdiction to order the government to ask Mexico not to re-deport him to El Salvador. *D.A. v. Noem*, 2025 WL 2646888 (D.D.C. Sept. 15, 2025).[5] Meanwhile, the *D.V.D.* case is currently in briefing at the U.S. Court of Appeals for the First Circuit,

[5] *D.A. v. Noem* is a case responsive to this Court's request for "any known federal court opinions or orders . . . in which the government has removed an individual to a third country after the individual was granted withholding of removal as a form of relief." Dkt. No. 23 at 2 ¶ 4. After the court's opinion in *D.A.*, Ghana repatriated the plaintiffs to their home countries, from which they had previously been granted withholding of removal. *See* Ghana Business News, "Ghana government deports 11 US deportees to home countries" (Sept. 24, 2025), available at https://www.ghanabusinessnews.com/2025/09/24/ghana-government-deports-11-us-deportees-to-home-countries/.

with the government's opening brief filed just three days ago; briefing at the First Circuit will not be completed for another two months (if no extensions are granted), *see D.V.D. v. DHS*, No. 25-1631 (1st Cir.); Petitioner will have long since been removed to Mexico.

Finally, as to the government's statutory jurisdiction-stripping arguments, Petitioner is not challenging the government's *lawful* exercise of discretion to carry out a removal order, 8 U.S.C. § 1252(g). As the Ninth Circuit recently explained, Section 1252(g) is a "discretion-protecting provision" that "was directed against a particular evil: attempts to impose judicial constraints upon prosecutorial discretion," but it leaves undisturbed a District Court's "jurisdiction to decide a purely legal question that does not challenge the Attorney General's discretionary authority." *Ibarra-Perez v. United States*, 2025 WL 2461663, at *6 (9th Cir. Aug. 27, 2025) (internal citations omitted).

Should Respondents argue that 8 U.S.C. §§ 1252(a)(5) and (b)(9) channel all challenges to removal orders to a petition for review to the court of appeals, this is not a challenge to Petitioner's underlying removal order entered in May 2024, which remains undisturbed no matter what the outcome of these Reasonable Fear proceedings: as the Supreme Court recently explained, "the finality of an order of removal does not depend in any way on the outcome of the withholding-only proceedings." *Riley v. Bondi*, 145 S. Ct. 2190, 2199 (2025). Put differently, if Petitioner wins his case for protection to Mexico, he will still have a final removal order; there will simply be *two* countries instead of one to which that removal order may not be executed. As the Ninth Circuit explained in *Ibarra-Perez*:

> Because Ibarra-Perez challenges ICE's actions taken after his removal proceedings before the IJ and BIA had ended, neither section applies. Section 1252(a)(5) does not apply because Ibarra-Perez does not seek review of his removal order. Similarly, § 1252(b)(9) does not apply because Ibarra-Perez brings claims that arose after completion of his removal proceedings. Instead, Ibarra-Perez challenges ICE's separate and post-hearing decision to remove him to Mexico. He could not have contested this decision through the normal petition-for-review process because it was made after his removal proceedings had ended. The government

> attorney never mentioned Mexico as a possibility during Ibarra-Perez's proceedings before the IJ, and the IJ did not designate Mexico as an alternative country of removal. To state the obvious, Ibarra-Perez could not seek review of a decision that had not been made.

2025 WL 2461663, at *9, citing *Aden*, 409 F. Supp. 3d at 1006 (holding that a habeas petitioner's challenge to a country-of-removal designation was not barred by § 1252(a)(5) because ICE acted "outside of removal proceedings").

Conclusion

For the foregoing reasons, this Court should enter a preliminary injunction, prohibiting Respondents from removing Petitioner to Mexico until 7 days after an Immigration Judge reviews the denial of his Reasonable Fear Interview, and only if the Immigration Judge affirms such denial.

Respectfully submitted,

Date: September 26, 2025

//s// *Simon Sandoval-Moshenberg*
Simon Sandoval-Moshenberg, Esq.
Attorney-in-charge
S. D. Tex. Bar no. 3878128
Virginia State Bar no. 77110
Murray Osorio PLLC
4103 Chain Bridge Road, Suite 300
Fairfax, VA 22030
Telephone: (703) 352-2399
Facsimile: (703) 763-2304
ssandoval@murrayosorio.com

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on this date, I uploaded the foregoing, along with all attachments thereto, to this Court's CM/ECF case management system, which will send a Notice of Electronic Filing (NEF) to all counsel of record.

Respectfully submitted,

Date: September 26, 2025

//s// Simon Sandoval-Moshenberg
Simon Sandoval-Moshenberg, Esq.
Attorney-in-charge
S. D. Tex. Bar no. 3878128
Virginia State Bar no. 77110
Murray Osorio PLLC
4103 Chain Bridge Road, Suite 300
Fairfax, VA 22030
Telephone: (703) 352-2399
Facsimile: (703) 763-2304
ssandoval@murrayosorio.com