

contemplated by a concurrence of the United States Supreme Court's decision in *Munaf v. Geren*, 553 U.S. 674, 703 (2008).

On April 3, 2025, the Court ruled on the petition, dismissing the certification question (uncontested by the Petition) with prejudice, and dismissing the Petitioner's habeas CAT / FARRA ACT and other claims without prejudice. Specifically, the Court determined that the habeas claims were unripe for adjudication because the Department of State had not at that time made a determination whether to surrender the petitioner to Honduras. That time is now upon us.

On July 14, 2025, at 10:23 a.m. (central time), the Department of State (DOS) emailed the undersigned counsel a letter response informing of its determination to surrender Mr. Martinez Guardado to Honduras. By previous agreement with the DOS, the DOS agreed to not surrender Mr. Martinez Guardado to Honduras, so long as he resubmitted his habeas petition within 72 hours of that notice, *and* he also filed a corresponding motion to stay his surrender. Mr. Martinez Guardado has timely filed his habeas petition challenging his extradition and surrender to Honduras contemporaneously with this motion for a stay. This motion for stay is thus submitted to prevent the Petitioner's surrender to Honduras before the Court has the opportunity to consider the full merits of his habeas claims. Alternatively, Martinez Guardado petitions this Court for a temporary stay to allow Martinez Guardado time to file a notice of appeal with the Fifth Circuit, and a corresponding motion to stay with that court.

In determining whether to grant a stay of extradition, the Court should consider four factors: “(1) whether the stay applicant has made a strong showing that he is likely to succeed on the merits; (2) whether the applicant will be irreparably injured absent a stay; (3) whether issuance of the stay will substantially injure the other parties interested in the proceeding; and (4) where the public interest lies. The first two factors of the traditional standard are the most critical. More than a mere possibility of success on the merits is required.” *United States v. Gutierrez-Espinoza*, 2015 U.S. Dist. LEXIS 58256, *4 (S.D. Tex. 2016) (citing *Quintanilla v. United States*, 582 F. App'x 412, 414 (5th Cir. 2014)) (internal citations omitted). Each factor is discussed, in turn:

B. First Factor: A Strong Showing That Petitioner Is Likely To Succeed On The Merits

Petitioner has made a strong showing that he is likely to succeed on the merits. In support of his petition, he has provided a sworn declaration by expert Abram Huyser-Honig, who possesses a master's degree in Public Policy from Michigan State University, and a bachelor's degree in English and Spanish from Calvin University in Grand Rapids, Michigan. Mr. Huyser-Honig's declaration is based on his professional expertise and first-hand experience as a former resident of Honduras; review of reports and publications produced by other researchers and organizations; dialogue with other experts on violence, governance, and human rights in Honduras; and interviews with Hondurans affected by violence, corruption, and other human rights violations. *See generally* Declaration of Abram Huyser-Honig, and corresponding CV, attached and incorporated by reference as **Exhibits A and B**. Of significance to Mr. Martinez-Guardado's petition is that Mr. Huyser-

Honig's declaration is supported in part by at least two reports detailing human rights abuses routinely perpetrated by Honduran authorities, to include specific references to Honduras's prison system *that have been compiled by the United States Department of State*, the same body that now seeks to surrender Mr. Martinez Guardado to Honduras. A relevant portion of Huyser-Honig's affidavit is quoted for the Court, with language from the DOS reports in boldface type:

C. Honduran Prisons Are Dangerous and Inhumane

According to [the Department of State's] most recent report on human rights conditions in Honduras, published in the spring of 2024:

Prison conditions were harsh and at times life threatening due to gross overcrowding, malnutrition and lack of medical care, and abuse by prison officials. The government's failure to control criminal activity and pervasive gang-related violence contributed significantly to insecurity.

¶ 27 (citing "2023 Country Reports on Human Rights Practices: Honduras." Bureau of Democracy, Human Rights, and Labor of the U.S. Department of State. April 22, 2024. <https://www.state.gov/reports/2023-country-reports-on-human-rights-practices/> .

The State Department's report also notes that "prisons were severely overcrowded"; that prisoners "suffered from malnutrition, lack of adequate sanitation and medical care, and, in some prisons, lack of adequate ventilation and lighting"; and that Honduran human rights agencies "reported more than 100 cases of alleged torture or cruel and inhuman treatment of detainees and prisoners by security forces." ¶ 28 (citing "2023 Country Reports on Human Rights Practices: Honduras").

In July 2023, a spokesperson for the United Nations High Commissioner for Human Rights stated that the agency was concerned by recent developments in the Honduran prison system since control of Honduran prisons was returned to the military under the state of emergency,

including reports that correctional officers were beating inmates and depriving them of adequate food, water, and sleep. 9 ¶ 29.

The UN continued to highlight concerns about conditions in Honduran prisons in 2024; in April, the leader of a delegation from the UN Subcommittee on the Prevention of Torture stated that “we observe, with concern, that conditions in a significant number of places of deprivation of liberty amount to cruel, inhuman, and degrading treatment.” ¶ 30.

In February 2023, Honduras’ National Human Rights Commission reported that in the previous four years 70 inmates were killed inside Honduran prisons. ¶ 31.

[D]. Prison Massacres and Fires

Mr. Huyser-Honig also adds that, over the past two decades, over 550 inmates in Honduran prisons lost their lives in five mass-death events:

a) In 2003, 68 people—61 of them gang members—were slaughtered in a prison in northern Honduras; most were shot to death by prison guards and by non-gang-affiliated prisoners working in tandem with the guards.

b) In 2004, a fire in a prison in San Pedro Sula killed 107 inmates.

c) In March 2012, 13 prisoners died in a riot and fire in the same San Pedro Sula prison.

d) The month before, in February 2012, a fire in a prison in central Honduras killed 326 people, most of them inmates.

e) On June 20, 2023, female Barrio 18 members murdered 46 fellow inmates by shooting them, hacking them to death with machetes, and setting fires in their cells.

¶ 32.

[E]. Honduran prisoners face a significant risk of being harmed by law enforcement personnel because they engage in violent, organized crime.

Members of the Honduran National Police force from the very highest levels on down have been implicated in the gamut of criminal behavior. Honduran law enforcement agents frequently collaborate with—and even count themselves as members of—MS-13, Barrio 18, and other gangs. Gang

leaders pay off law-enforcement agents to willfully ignore industrial-level extortion of the public transportation sector, to permit free movement of money and goods in and out of prison, and more. Networks of Honduran National Police officers frequently provide gang members with weapons and police uniforms. ¶ 33

The Honduran Police are also key players in the trafficking of illegal drugs, especially cocaine, across Honduran territory as it moves from producers in South America to consumers located primarily in the United States. Honduran police officers have also engaged in murder for hire and operated kidnapping rings. ¶ 34.

Mr. Huyser-Honig opines on the implications that the current state of law enforcement in Honduras has on an imprisoned extraditee like Mr. Martinez Guardado. He explains that given Honduran law-enforcement agents' propensity for criminal involvement, there is a significant risk to prisoners of being harmed by law-enforcement officers who take sides in conflicts between different inmate groups. 12. For example, in the 2003 El Porvenir prison massacre, penitentiary police teamed up with non-gang-affiliated inmates to massacre gang members. A recent report published by the Organization of American States that many police and prison guards are affiliated with the MS-13 gang. ¶ 35.

This factor favors a stay.

C. Second Factor: The Petitioner Will Be Irreparably Injured Absent a Stay

Once removed from this country and surrendered to Honduras, it will be a practical impossibility to reverse the process and have Mr. Martinez-Guardado, a legal permanent resident, returned to this country. Moreover, it is the exposure to the Honduran prison system that the Petitioner seeks to avoid. Concluding his affidavit, Huyser-Honig makes the following findings:

Honduran incarceration system expert Abram Huyser-Honig has reviewed the definition of "torture" in 22 CFR § 95.1, and opines that it is more likely

than not that Mr. Martinez Guardado will experience treatment that meets that definition of torture if he is incarcerated in Honduras, following his surrender to Honduras. ¶ 58. Specifically, he opines the following to be true:

- a) An individual incarcerated in Honduras is almost certain to endure inhumane conditions such as lack of food, water, and sanitation;
- b) It is more likely than not that an individual incarcerated in Honduras will, at some point during their incarceration, be beaten, physically attacked, and/or otherwise physically and/or mentally harmed by Honduran security forces in ways that may be qualified as “torture” under 22 CFR § 95.1;
- c) It is more likely than not that an individual incarcerated in Honduras will, at some point during their incarceration, be beaten, physically attacked, and/or otherwise physically and/or mentally harmed by fellow inmates, acting with the tacit permission of Honduran security forces, in ways that may be qualified as “torture” under 22 CFR § 95.1;
- d) Individuals incarcerated in Honduras face a significant risk of being murdered by fellow inmates, being murdered by security personnel, or dying in prison fires or similar catastrophic incidents. Based on available statistics, inmates in Honduran prisons appear to face a risk about 20 times higher than that of inmates in U.S. jails and prisons of dying in these ways.

¶ 59 (a-d)). See *United States v. Gutierrez*, 2015 U.S. Dist. LEXIS 166634 (W.D. Tex. 2015) (Finding that Petitioner Gutierrez would be irreparably harmed if a stay of his extradition was not granted (but finding that *Gutierrez* failed to establish a strong likelihood of success on the merits). This factor also favors a stay.

(D) Third Factor: Whether Issuance Of The Stay Will Substantially Injure The Other Parties Interested In The Proceeding;

On February 18, 2025, per government filing, the extradition treaty between the United States and Honduras was extended by one year and set to expire until March 1, 2026. See Case 4:24-cv-04862 (Doc 8, Filed on 02/21/25). Nothing suggests that the United States, or any other party, will be substantially injured if Mr. Martinez Guardado's requested stay is granted. This factor also favors a stay.

E. Fourth Factor: Where The Public Interest Lies:

It is significant that the United States as a sovereign nation has vast discretion to carry out its political objectives with other countries, to include extradition treaties such as the one with Honduras. However, this interest cannot be sustained at by violating federal laws that prohibit the torture and the significantly inhumane mistreatment of its people, specifically, exposing Mr. Martinez Guardado, a United States Legal Permanent Resident, to probable torture, or death. This factor also favors granting a stay.

F. Request For A Temporary Stay to Permit Mr. Martinez Guardado To File A Notice Of Appeal With The Fifth Circuit Court Of Appeals If Relief Is Denied

In the event that this Court denies Mr. Martinez Guardado habeas relief, or, if the Court denies a stay to allow the Court time to consider the merits of Martinez Guardado's

habeas petition, Mr. Martinez Guardado requests that the Court grant him a temporary stay of 7 days, to allow him the opportunity to file a notice of appeal with the Fifth Circuit Court of Appeals, together with a motion to stay Martinez Guardado's surrender to Honduras, during the appellate court's consideration of his appeal. *See Gutierrez*, 2015 U.S. Dist. LEXIS 166634 at * 5) (Denying extradition stay, but granting temporary stay (30 days) to allow the opportunity to seek appellate review from the Fifth Circuit Court of Appeals.). *See also Sridej v. Blinken*, 2024 U.S. Dist. LEXIS 14134 (D. Nev. 2024) (Denying stay of extradition, but granting temporary stay to allow filing an appeal with the Ninth Circuit, and seeking a stay with that court).¹

Conclusion and Prayer

WHEREFORE, Petitioner Melvin Martinez Guardado asks that this Court grant him a stay of his extradition and surrender order to Honduras. Alternatively, and in the event that this Court denies Mr. Martinez Guardado relief, he requests a temporary stay of 7 days, from the date of the judgment, to allow him to file a notice of appeal with the

¹ The district court's complete ruling:

Based on the foregoing, Sridej's motion to stay extradition pending her appeal to the Ninth Circuit is denied. Sridej, however, in the alternative, requests "a temporary administrative stay to allow [her] to pursue a full stay pending appeal in the Ninth Circuit." ECF No. 23 at 15. The Court grants Sridej's request for a temporary stay of her extradition pending the resolution of an anticipated stay motion in the Ninth Circuit. Therefore, Sridej's extradition is hereby stayed for at least seven days pursuant to Ninth Circuit Rule 27-2. If Sridej seeks a stay in the Ninth Circuit within seven days of this order, the Court will stay Sridej's extradition until the Ninth Circuit rules on Petitioner's stay motion. If Sridej, however, does not seek a stay in the Ninth Circuit within seven days of this order, then this Court's temporary stay of Sridej's extradition will expire seven days after the entry of this order. The parties are hereby ordered to update the Court regarding whether Sridej moves for a stay in the Ninth Circuit no later than seven days from the date of this order.

Sridej, at *12-13.

Fifth Circuit, and to pursue a full stay with that court pending his appeal of the Court's order.

PHILIP G. GALLAHER
Federal Public Defender
Southern District of Texas No. 566458
New Jersey State Bar No. 2320341

/s/ Jorge G. Aristotelidis
GEORGE W. "JORGE" ARISTOTELIDIS
Southern District of Texas No. 18443
Texas Bar No. 00783557
Lyric Tower
440 Louisiana St.
Suite 1350
San Antonio, Texas 77002
(713) 718-4600
jorge_aristotelidis@fd.org

COUNSEL FOR PETITIONER
MELVIN MARTINEZ GUARDADO