

Federal Detention Center in Houston, Texas (FDC Houston), under orders of Respondents, United States Marshal O'Connor, Secretary Marco Rubio and Attorney General Pam Bondi.

Because his extradition violates the United Nations Convention Against Torture ("CAT"), the Foreign Affairs Reform and Restructuring Act of 1998 ("FARRAct") (which implements observance of the CAT under federal law), the State Department's regulations implementing the CAT and the FARR Act, the Due Process Clause of the Fifth Amendment to the United States Constitution, and the Suspension Clause in art. I, § 9, cl. 2 of the United States Constitution, Mr. Martinez Guardado requests that this Court stay his extradition, grant him a meaningful opportunity to be heard on his claim that he would be tortured if extradited, conclude that Petitioner's extradition is barred by federal law, and order Respondents to cancel the Petitioner's extradition and surrender, and release him from custody.

On December 6, 2024, Petitioner filed a writ of habeas corpus seeking the relief requested in the present application. This petition was denied, but without prejudice, because the district court found the petition to have been filed prematurely, and thus not ripe for adjudication. This is because at the time the Department of State had not ruled on the Petitioner's request to deny the Petitioner's surrender to Honduras. *See* Memorandum and Order (Case 4:24-cv-04862, Doc 9, filed 04/03/25).

On June 12, 2025, the undersigned received an email message from Mr. John Ganz, Assistant United States Attorney representing the DOS in this matter, advising that the government would not surrender Mr. Martinez-Guardado for a period of 72-hours,

from the time the DOS sends the undersigned a letter notification communicating the DOS's surrender warrant determination in order to allow Mr. Martinez Guardado sufficient time to refile his habeas petition with this Court, and a corresponding motion to stay. The DOS specified that surrender may proceed unless Mr. Martinez Guardado has sought and obtained a court-ordered stay.

On Monday, July 14, 2025, the undersigned received and emailed letter advising of the DOS's decision to surrender Mr. Martinez Guardado. In the letter, the DOS represents as follows:

A decision to surrender a fugitive who has made a claim of torture invoking the Convention reflects either a determination that the claimed "torture" does not meet the definition set forth in 22 C.F.R. § 95 .1 (b) or a determination that the fugitive is not "more likely than not" to be tortured if extradited. Claims that do not come within the scope of the Convention also may raise significant humanitarian issues. The Department carefully and thoroughly considers both claims cognizable under the Convention and such humanitarian claims and takes appropriate steps, which may include obtaining information or commitments from the requesting government, to address the identified concerns.

The DOS "confirm[ed] that the decision to surrender Mr. Martinez Guardado to Honduras complies with the United States' obligations under the Convention and its implementing statute and regulations."

JURISDICTION AND STANDARD OF REVIEW

The district court has jurisdiction over a petition for writ of habeas corpus when a person is in custody in violation of the Constitution, laws, or treaties of the United States. *See* 28 U.S.C. § 2241. This Court also has jurisdiction under art. I , § 9, cl. 2 of the United States Constitution ("Suspension Clause") and 28 U.S.C. § 1331, as Petitioner is

presently in custody under color of authority of the United States and such custody is in violation of the U.S. Constitution, laws, or treaties of the United States. This Court may grant relief pursuant to 28 U.S.C. § 2241, and the All Writs Act, 28 U.S.C. § 1651.

The proper venue for a habeas petition under § 2241 is the petitioner's district of confinement. Venue in this case lies in the Southern District of Texas because Mr. Martinez Guardado is detained at FDC Houston in Houston, Texas.

PARTIES

Petitioner Melvin Martinez Guardado is a lawful permanent resident of the United States. He is currently detained at FDC Houston. Upon information and belief, Mr. Martinez Guardado is accused in Honduras of having killed a person, and his extradition has been certified by Magistrate Judge Andrew M. Edison. *See* Opinion and Order (ECF Dkt. 25). Petitioner Martinez Guardado contends that his extradition violates federal law and makes the non-frivolous argument that federal courts have the power and jurisdiction to grant him a meaningful opportunity to be heard on whether he can legally be extradited to Honduras, because he will, more likely than not, be tortured.

Respondent Hriomichi Kobayashi is the warden of FDC Houston. He is an employee of the Bureau of Prisons, which operates the Federal Detention Center in Houston, Texas (FDC Houston). As the warden of the facility, Respondent Kobayashi is the immediate physical custodian of Mr. Martinez Guardado. He is sued in his official capacity.

Respondent Thomas M. O'Connor is the United States Marshal for the Southern District of Texas. As such, he is responsible for, among other things, the custody of

federal prisoners pending federal criminal charges or extradition. Respondent O'Connor has legal custody of Mr. Martinez Guardado and is authorized to release him. He is sued in his official capacity.

Respondent Marco Rubio is the Secretary of State for the United States. He is the President's chief foreign affairs adviser and carries out the President's foreign policies through the State Department. As a result, in his official capacity, Secretary Rubio reviews all foreign extradition demands and makes the determinations whether a treaty is in force, whether the crimes are extraditable offenses, whether the extradition documents are properly certified as required by federal law and is responsible for making the final determination whether to surrender Mr. Martinez Guardado to Honduras. He is empowered to grant withholding of removal or other relief to Mr. Martinez Guardado consistent with the CAT and FARR ACT and is Mr. Martinez Guardado's legal custodian. He is sued in his official capacity.

Respondent Pam Bondi is the Attorney General of the United States. The Attorney General has responsibility for the administration of the immigration laws pursuant to 8 U.S.C. § 1103 and is responsible for surrendering Mr. Martinez Guardado to Honduras pursuant to Respondent Bondi's determination that Mr. Martinez Guardado should be extradited. The Attorney General is empowered to grant withholding of removal or other relief to Mr. Martinez Guardado, and she is Mr. Martinez Guardado's legal custodian. She is sued in her official capacity.

STATEMENT OF FACTS

Expert Witness Declaration: Prison Conditions in Honduras

Basis of Opinion and Expert's Qualifications

A. Education and Experience

Mr. Mr. Huyser-Honig 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. He has submitted a declaration that is based on his professional expertise and direct experience; 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* Sworn Declaration (Decl.) by Abram Huyser-Honig, and CV, attached as **Exhibits A and B**. Decl. ¶¶ 2-3.

For over 19 years, Mr. Mr. Huyser-Honig has been involved with the Association for a More Just Society (Asociación para una Sociedad más Justa, or "ASJ"), a nongovernmental organization that advocates for reforms in Honduras to enhance justice and human rights. ASJ is the chapter in Honduras of Transparency International (TI), a global coalition of civil society, anti-corruption organizations. ASJ has received millions of dollars in funding from the U.S. State Department and continues to receive funding also from many other individuals, foundations, nonprofit organizations, and governmental agencies. It has been featured in reporting by the New York Times and other highly respected news media. ¶ 4.

Over the last ten years, Mr. Mr. Huyser-Honig has served as an expert in approximately 130 asylum cases on behalf of Honduran men and women before federal immigration courts in Detroit, Michigan; Chicago, Illinois; Hartford, Connecticut; Arlington, Virginia; New Orleans, Louisiana; Seattle, Washington; Houston, Texas; New York City; and other jurisdictions. To his knowledge, his designation as an expert has never been contested. He adds that Mr. Martinez Guardado's is the first case in which he has rendered services for a Federal Public Defender office. ¶ 5-6.

B. Experience Related to Honduran Prisons

As an undergraduate student studying in Honduras, Mr. Mr. Huyser-Honig visited the Granja Penal de Comayagua (Comayagua Penal Farm) and the Centro Penitenciario de La Paz (La Paz Penitentiary). As part of his work for ASJ, he visited the Renaciendo (Rebirth) youth penitentiary, and in the course of his life and work in Honduras he visited several police stations and witnessed conditions in holding cells at these stations. During the time he worked for ASJ, colleagues of Mr. Mr. Huyser-Honig provided investigative and legal support to several individuals who had been tortured while incarcerated at the Renaciendo youth penitentiary. He reviewed case files and interviewed lawyers, investigators, and the victims involved in that case. 3. ¶ 7-8.

As editor of Revistazo.com, Mr. Mr. Huyser-Honig oversaw the process of reporting and publishing a series of articles about conditions in Honduran prisons. ¶ 9.

C. Additional Experience Related to Honduran Law-Enforcement Agencies and Practices

During the decade that he lived in Honduras, Mr. Mr. Huyser-Honig interacted with dozens of Honduran law enforcement agents. One of ASJ's programs provides investigative and legal aid to crime victims; many of the private detectives hired by ASJ for this project were former Honduran National Police detectives. The private lawyers and detectives working for ASJ coordinated actions with active-duty police detectives, and he met and conversed with a number of these detectives. 4 ¶ 10.

In addition, after one of his colleagues was assassinated in 2006, the Inter-American Human Rights Commission ordered the Government of Honduras to provide police protection for ASJ. As a result, for the majority of the time he lived and worked in Honduras, Mr. Mr. Huyser-Honig interacted on a daily basis with Honduran police officers assigned to provide protection to the staff of ASJ. Six officers were assigned at a time, and due to rotations, he met and got to know twenty or more police officers in this capacity. 4 ¶ 9.

Through his work with ASJ, Mr. Huyser-Honig met and spoke with prosecutors and judges on dozens of occasions, observed several criminal trials, and read through hundreds of pages of police reports, formal charge filings, and court transcripts. 4 ¶ 12.

Mr. Huyser-Honig was also assigned by ASJ to act as a consultant to special commissions tasked by the Honduran Government with cleaning up corruption in the public prosecuting agency and collaborated directly with government prosecutors investigating alleged instances of corruption and violent crime. In July and August of

2016, Mr. Huyser-Honig acted as a consultant to a civil society Commission appointed by the Government of Honduras that was tasked with purging Honduras's national police force of agents suspected of corruption. ¶ 13.

As he did on the topic of Honduran prisons, under Mr. Huyser-Honig's leadership, Revistazo.com also frequently published articles related to corruption and mismanagement within the Honduran police force. ¶ 14.

D. Experience Related to Gangs and Organized Crime

Between October 2004 and August 2014, Mr. Huyser-Honig lived in Honduras. Throughout this time, he lived in economically depressed neighborhoods that were affected significantly by violence and criminality (from 2004 – 2008 in Nueva Suyapa and from 2008 – 2014 in Carrizal, both in Tegucigalpa). ¶ 15.

Throughout the time he lived in Honduras, he worked in many capacities for ASJ. As an advocacy and public relations official, he shadowed and wrote about colleagues who provided investigative, legal, and counseling services to survivors of domestic abuse, sexual and gender-based violence, extortion, and other violent crimes, and he got to know many of these survivors. He relates:

Later, during the two years I served as Coordinator of Research and Investigations, I contributed to and supervised scores of research projects, interviewing public officials and other local experts, designing and carrying out surveys and focus groups, reviewing laws and legal precedents, obtaining and reviewing government documents, and creating databases in order to analyze information obtained from the government.

¶ 17. In 2013 – 2014, Huyser Honing contributed as a researcher to the report “Honduras Elites and Organized Crime”, published by Washington, D.C.-based think-tank InSight

Crime; this report examines the relationships of Honduran political and business elites with drug traffickers. In 2015, he contributed supervisory and editorial services to the production of a report ASJ produced in cooperation with InSight Crime on gangs in Honduras. In the fall of 2016, he helped to plan the most comprehensive effort to date to calculate impunity rates and track the progress of homicide cases throughout the country. In 2017, Revistazo journalists under his supervision contributed reporting to an InSight Crime report on arms trafficking in Honduras. In 2018 he directed a journalistic investigation covering the election of the Honduras' Attorney General. ¶ 18.

Under Mr. Huyser-Honig's direction, ASJ's online investigative journal, Revistazo.com, has published extensive coverage of cases and issues related to gang violence. ¶ 19.

E. Ongoing experience

Mr. Huyser-Honig continues to interact regularly with reporters and civil society actors in Honduras. Examples of recent work include the following:

- a) In the spring of 2024, he edited three in-depth journalistic investigations about drug trafficking and land-rights conflicts written by a journalist contracted by ASJ.¹³
- b) In July 2023 he served as a translator for Gabriela Castellanos, the director of Honduras's National Anti-Corruption Commission (CNA), during a presentation she gave in Michigan.
- c) In late 2021 and early 2022, he was contracted as a consultant by a program funded by the National Democratic Institute (NDI) to provide supervision and editorial services for a group of Honduran journalists working on an investigation related to corruption in the Honduran public health system's response to the Covid-19 pandemic.

¶ 6-7. He explains that because Honduras is a small country with a unitary system of government, his observations regarding the operations of government agencies and structures are generally applicable to the context throughout the country. ¶ 7.

Prison Conditions in Honduras

Overview of Honduran Law Enforcement and Prisons

A. Law Enforcement Agencies

Mr. Huyser-Honig explains that, in contrast to the United States, where law-enforcement and incarceration are managed by a mosaic of municipal, county, state, and federal agencies, in Honduras these functions are almost entirely carried out by national-government agencies. Most law-enforcement activity in Honduras is carried out by the Honduran National Police, a unified police force that is part of the executive branch of the national government and is responsible for law enforcement throughout the country. The Honduran National Police are organized into several major subdivisions, including Preventive Police (uniformed beat cops), Traffic Police, and Investigative Police. After the Honduran National Police, the Honduran Armed Forces is the most important institution engaged in law-enforcement. Of particular note is the Public Order Military Police (PMOP), a branch of the military that is tasked with protecting civilian security through efforts such as anti-gang patrols and arrest operations. However, other military units also engage in activities such as patrolling high-crime areas and crowd control during public protests. ¶¶ 22-24.

B. Prisons and Prison Administration:

The Honduran Government runs 25 prisons, with a total population of around 19,500 prisoners. By the government's own account, that is about 6,500 more than the prisons were built to hold. Nearly half of the Honduran prison population is awaiting trial. ¶ 25.

Responsibility for Honduras's 25 prisons has ricocheted between the National Police, the Armed Forces, and the National Penitentiary Institute (INP). For example, in the spring of 2023, President Xiomara Castro was unhappy with the ways prisons were being administered by the INP, so in April 2023 she appointed a special commission affiliated with the National Police to take over leadership of the prison system. However, two months later, she decided the special commission was not doing a good job either, and put the military in charge. ¶ 26.

C. Honduran Prisons are Dangerous and Inhumane

According to the United States 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.

8 ¶ 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/>

(emphasis added)

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." at 9 ¶ 28 (citing "2023 Country Reports on Human Rights Practices: Honduras") (emphasis added)

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 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.²

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. (emphasis added)

E. Honduran prisoners face a significant risk of being harmed by law enforcement personnel

Honduran Police 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

² "U.S. Department of State, Country Reports on Human Rights Practices for 2003: Honduras." <https://www.state.gov/j/drl/rls/hrrpt/2003/27903.htm>

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. 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.

E. Honduran Police Engage in Brutality and Violate Due Process

The Honduran police have a long history of disregarding due process and physically abusing and even killing civilians. **Again, citing from a 2023 report prepared by the State Department:**

"significant human rights issues included credible reports of: arbitrary or unlawful killings; torture or cruel, inhuman, or degrading treatment or punishment by government agents; harsh and life-threatening prison conditions; arbitrary arrest or detention;"

¶ 36. Observers have criticized the Honduran police for their frequent use of arbitrary detention. **The State Department notes in its 2019 report on Human Rights practices**

in Honduras that Honduras' National Human Rights Commission reported 80 cases of arbitrary detention by security forces in that year. ³ The true number is likely to be higher, since many individuals do not have easy access to the offices of the Human Rights Commissioner and may be afraid to report police misconduct in any case. ¶ 37.

C. Torture of Arrestees

The Honduran police frequently beat, abuse, and torture individuals they arrest. A nongovernmental organization that advocates against abusive practices by Honduran law-enforcement authorities estimated that among individuals arrested by police, as many as seven in ten were beaten, abused, and/or tortured in some way. ¶ 38.

In April of 2020, journalists reported multiple instances of Honduran individuals being tortured by police after being detained for allegedly failing to heed the country's COVID-19 related lockdown; these individuals reported having their faces rubbed with towels soaked in pepper spray, having their heads forced into buckets of water, and being beaten while handcuffed. Between 2017 and 2020 journalists and human rights defenders also reported instances of police officers punishing individuals imprisoned for protesting a mining project by allowing them to wear only underwear inside the prison and of police officers throwing pepper spray inside of a van where protesters had sought refuge during clashes between police and protesters at the national university. As of 2019, at least 39 police officers were under investigation for alleged participation in torture, but none had been convicted. Between 2017 and 2018, a Honduran nongovernmental organization

³ "2019 Country Reports on Human Rights Practices: Honduras". U.S. State Department (2020) <https://www.state.gov/reports/2019-country-reports-on-human-rights-practices/honduras/>

dedicated to supporting victims of torture said it received 95 reports from individuals who said they were tortured by law-enforcement agents. ¶ 39.

In 2010, police officers in the city of Siguatepeque responded to a call from a hotel requesting assistance with a patron at the hotel bar who was getting rowdy. The man was arrested, and eight police officers beat him in their vehicle and then in a cell at the police station until he had a seizure and died. ¶ 40.

In 2007, police officers arrested a homeless man who was addicted to inhaling paint thinner vapors. One of the officers took away the man's container of paint thinner, threw the contents on the man, and then lit him on fire. ¶ 41.

Around 2005 to 2007, colleagues of Mr. Huyser-Honig's at ASJ worked collaborated with victims and public prosecutors to investigate and prosecute police and other personnel at a juvenile detention center near Tegucigalpa; these individuals had tortured inmates by forcing them to eat feces, breaking their bones, and locking them in closet-sized spaces for over 24 hours. In the mid-2000s, when the organization he worked with, ASJ, began offering investigative and legal aid to victims of gang violence, it also found it necessary to adopt a human rights policy to make sure that police officers it collaborated with did not beat, abuse, or falsely incriminate suspects. ¶ 42.

E. Extrajudicial Killings and Death Squads Committed by Police Officers

Mr. Huyser-Honig cites numerous examples. He concludes these examples with a personal interview he conducted in 2004, while a freelance journalist writing about Honduran news and issues for several English-language publications. The woman he interviewed said her son had been murdered by men wearing police uniforms who had

arrived at a soccer field where the woman's son was playing soccer and summarily executed him and others who were on the field. ¶¶ 43-48.

Based on these accounts and given Honduran law-enforcement agents' propensity for engaging in violence against individuals they deem to have broken the law, or simply to have crossed them in some way, Huyser-Honing opines that inmates in Honduran prisons face a significant risk of being attacked and/or killed by these agents. ¶ 49.

F. Honduran prisoners face a significant risk of being harmed by fellow inmates

The Vice-Minister of Security, Julissa Villanueva, recently told Organization of American States (OAS) representatives that while the problem of Honduran prisons being governed by prisoners was decades old, it has gotten worse in the past 10 or 15 years. Villanueva also noted that this problem was most severe in the country's maximum-security prisons—which, ironically, were intended to be model institutions where the authorities exercised greater control over life on the inside. ¶ 50.

Honduras's largest prisons have separate wings dedicated exclusively to Barrio 18 and MS-13, respectively. These gangs rule over their sections of the prisons as quasi-autonomous fiefdoms, usually overseen by older, heavily tattooed gang members serving multi-decade sentences. ¶ 51.

A report commissioned by the Honduran Government found that the directors of the country's prisons lacked adequate training, and that corruption and smuggling of drugs into prisons is widespread. Gang members and others with money to pay off guards have free access to cell phones they can use to communicate with the outside world, and

illicit cash flows in and out of Honduras's prisons are estimated to be in the millions of dollars. ¶ 52.

In response to growing public frustration with Honduran prisons serving simply as headquarters for gangs, the Honduran Government inaugurated a maximum-security prison based on U.S. models, known as "El Pozo" (The Pit), in 2016. A year later, a second maximum-security prison, "La Tolva" (The Hopper), was opened. But prison officials at El Pozo have colluded with inmates to help them run extortion rings that operate outside prison walls and allowed inmates to have access to knives and guns which they have used to commit murders inside prison. In practice, Honduras's new "maximum security" facilities are plagued by the same porousness endemic to the rest of its prisons, allowing information, plans, weapons, and violence to pass freely between prisoners and the outside world. Barrio 18 and MS-13 also control their own wings of these maximum-security prisons. In May 2021, a Honduran army colonel in charge of one "El Pozo" told a journalist that "inside those doors, the gangs have their own organization, their own rules, and their own means of punishment. We don't go there." ¶ 53.

Huyser-Honing opines that, given the extent to which criminal organizations control life on the inside of Honduran prisons, inmates in these facilities run a serious risk of being attacked, tortured, and/or murdered by members of criminal organizations. Between 2001 and 2008, for example, some 438 prisoners in Honduran penitentiaries were murdered by fellow inmates. In 2017, government agents found two human skulls

and other bones buried under the floor of a section of a prison that had been occupied by the Barrio 18 gang. ¶ 54.

G. The Honduran Government has not improved prison conditions despite decades of calls to do so

The Honduran Government is well aware of the problems in its prison system. Institutions like the U.S State Department, the Organization of American States, and Honduran and international human rights groups have been calling attention to the dire conditions in Honduras for years. ¶ 55.

Huyser-Honing narrates examples cited by Inter-American Court of Human Rights (IACHR), which determined that Honduran prisons violate the Inter-American Convention on Human rights:

a) In the case *López Álvarez vs. Honduras*, decided in 2005, the IACHR noted that Honduran prison conditions were crowded and unhealthy, and ordered the Government of Honduras to ensure that every prisoner in the country had adequate food, medical care, and physical conditions.

b) In the case *Pacheco Teruel and others vs. Honduras*, decided in 2012, the IACHR found the Honduran Government responsible for the deaths of the 107 inmates who died in the 2004 San Pedro Sula prison fire, and ordered the Government of Honduras to make “substantial improvements” to nine of the country’s most overcrowded and run-down prisons.

¶ 56.

Despite these clear signals that major improvements should be made, Honduras’s prisons remain crowded, inhumane, and dangerous. In its 2024 report on human rights in Honduras, the OAS noted that there had been little progress in addressing issues with the prison system that it had highlighted five years earlier. In July 2024, a coalition of Honduran human rights organizations reported that over the previous year they had

received 432 reports of cruel and inhuman treatment of inmates in Honduran prisons. ¶ 57.

H. Conclusion

Based on the evidence he has presented, it is Huyser-Honing's opinion that anyone incarcerated in Honduras is almost certain to endure inhumane conditions such as lack of food, water, and sanitation; faces a significant risk of being attacked, tortured, and/or killed by members of Honduran security forces; and faces a significant risk of being attacked, tortured, and/or killed by fellow inmates. ¶ 58. Additionally, Huyser-Honig opines as follows:

- 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).

GROUND FOR RELIEF

FIRST GROUND FOR RELIEF: VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT TO THE U.S. CONSTITUTION

The foregoing allegations are repeated and re-alleged as though fully set forth herein.

The Due Process Clause of the Fifth Amendment to the United States Constitution provides that “[n]o person shall . . . be deprived of life, liberty, or property without due process of law.”

As a lawful permanent resident of the United States, Mr. Martinez Guardado is entitled to the Due Process Clause protections against deprivations of liberty.

Respondents Blinken and Garland are constitutionally obligated not to extradite a person protected by the Due Process Clause if he is likely to be tortured or killed once surrendered to another country.

Mr. Martinez Guardado has demonstrated that if extradited, he is likely to be tortured or killed in Honduras.

SECOND GROUND FOR RELIEF: DENIAL OF A FORUM TO CHALLENGE EXTRADITION IS A VIOLATION OF THE SUSPENSION CLAUSE

The foregoing allegations are repeated and re-alleged as though fully set forth herein.

Notwithstanding any act of Congress, all persons, including Petitioner, enjoy the constitutional privilege of habeas corpus as protected by the Suspension Clause, Art. I, § 9, cl.2. Such privilege includes a meaningful opportunity to demonstrate the illegality of the Executive Branch's actions with respect to the detention of a person.

Respondents Blinken and Garland's determination to deny Petitioner a forum to challenge his detention and extradition would violate Mr. Martinez Guardado's right to habeas corpus under the Suspension Clause.

**THIRD GROUND FOR RELIEF:
VIOLATION OF THE CONVENTION AGAINST TORTURE**

The foregoing allegations are repeated and re-alleged as though fully set forth herein.

The CAT obligates signatories to the treaty to refrain from expelling, returning or extraditing a person to another state where there are substantial ground for believing that the person will be tortured.

As a signatory to the CAT, the United States is obligated to comply with the CAT and thus, Respondents Blinken and Garland cannot extradite Mr. Martinez Guardado if he is likely to be tortured or killed in Honduras if extradited.

Respondent Blinken's determination to surrender Mr. Martinez Guardado to Honduras would violate the CAT.

**FOURTH GROUND FOR RELIEF:
VIOLATION OF THE FARRAct**

The foregoing allegations are repeated and re-alleged as though fully set forth herein.

The FARRAct implements the United States' obligations under the CAT.

Pursuant to the FARRAct, Respondents Rubio and Bondi cannot extradite Mr. Martinez Guardado if he is likely to be tortured or killed in Honduras once extradited.

Respondent Rubio's determination to surrender Mr. Martinez Guardado to Honduras would violate the CAT.

FOURTH GROUND FOR RELIEF: VIOLATION OF THE FARRAct REGULATIONS

The foregoing allegations are repeated and re-alleged as though fully set forth herein.

The FARRAct regulations, 22 C.F.R. § 95.1 through 95.4, implements the United States' obligations under the CAT and FARRAct.

Pursuant to the FARRAct regulations, Respondents Rubio and Bondi cannot extradite Mr. Martinez Guardado if he is likely to be tortured or killed in Honduras once extradited.

LEGAL ARGUMENTS WITH AUTHORITY

CAT & FARRAct

In *Trinidad Garcia v. Thomas*, 683 F.3d 952 (9th Cir. 2012), an *en banc* court considered Trinidad y Garcia's challenge to his extradition to the Philippines, arguing that it would violate his rights under the Convention Against Torture (CAT) and the Fifth Amendment's Due Process Clause. *Trinidad Garcia v. Thomas*, 683 F.3d 952, 955 (9th Cir. 2012) (en banc). The court took up the question of jurisdiction.

It ruled that "[t]he district court had jurisdiction over the action pursuant to 28 U.S.C. § 2241, which makes the writ of habeas corpus available to all persons 'in custody in violation of the Constitution or laws or treaties of the United States,' and under the Constitution." *Trinidad Garcia v. Thomas*, 683 F.3d at 955 (citing 28 U.S.C. § 2241(c)(3); *Heikkila v. Barber*, 345 U.S. 229, 234-35 (1953); *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954)). It added that "[t]he writ of habeas corpus historically provides a remedy to noncitizens challenging executive detention." *Id.* (citing *INS v. St. Cyr*, 533 U.S. 289, 301-03 (2001)).

The Court observed that "[t]he CAT and its implementing regulations are binding domestic law, which means that the Secretary of State must make a torture determination before surrendering an extraditee who makes a CAT claim." *Id.* FARRA and its regulations generate interests cognizable as liberty interests under the Due Process Clause, which guarantees that a person will not be 'deprived of life, liberty, or property, without due process of law.'" *Id.* at 956-957 (citing U.S. Const. amend. V; *Mathews v. Eldridge*, 424 U.S. 319 (1976); *Goldberg v. Kelly*, 397 U.S. 254 (1970)). In light of this authority, "[t]he Secretary must consider an extraditee's torture claim and find it not 'more likely than not' that the extraditee will face torture before extradition can occur." *Id.* at 957 (citing 22 C.F.R. § 95.2.). "An extraditee thus possesses a narrow liberty interest: that the Secretary comply with her statutory and regulatory obligations."

More recently, in *Venckiene v. United States*, (7th Cir. 2019), the Seventh Circuit also recognized a district court's jurisdiction to consider a 2241 challenge to the Secretary of State's decision to surrender an extraditee, explaining:

...we are not inclined to say that a Secretary of State's extradition decision is never reviewable on due process grounds, let alone grounds of racial or religious bias, for example. Although the circumstances in which federal courts could and should overturn the highly discretionary decision of the Secretary of State should be rare, we need not say here that judicial review is never available. The courts have a duty to protect people and our fundamental principles of justice in the unlikely event that the executive makes an extradition decision based blatantly on impermissible characteristics like race, gender, or religion. We therefore consider Venckiene's due process challenge in this appeal, reviewing the Secretary of State's extradition decision to determine the likelihood that Venckiene's due process claim would succeed on habeas corpus review.

Venckiene v. United States 929 F.3d 843, 861 (7th Cir. 2019). In reaching its decision, the Seventh Circuit cited *Peroff v. Hylton*, 563 F.2d 1099 (4th Cir. 1977), and a Fifth Circuit opinion, *Escobedo v. United States*, 623 F.2d 1098 (5th Cir. 1980), as decisions that recognized a district court's jurisdiction to consider whether a Secretary of State's surrender order meets due process standards. *Venckiene*, 929 F.2d at 861.

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 if he is incarcerated in Honduras, following his surrender to Honduras. *Supra* at 21 (citing ¶ 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,⁷⁷ 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. *Supra* at 21-22 (citing ¶ 59 (a-d)).

Of particular significance to his well-supported opinion that Mr. Martinez Guardado is likely to be tortured if surrendered to Honduras is that ironically, Huyser-Honig’s opinions are based in part on reports prepared by *the DOS* that flatly condemn the Honduran government’s prison system as one rife with violence, torture, and death. On the one hand, DOS reports cited by Huyser-Honig consistently condemn the Honduran prison system, while on the other, DOS attempts to assure Mr. Martinez Guardado, in patently lightweight fashion, that there is a less than probable chance that he will be tortured or subject to significantly inhumane treatment because, well, the DOS says so, and the we should just go with that. Mr. Martinez Guardado, a legal permanent resident of this country, is guaranteed a meaningful habeas review of an extradition

process that, absent proven and reliable extraordinary measures by the Republic of Honduras to protect him during his incarceration in Honduras, is likely to result in serious harm or even death to his person.

Huyser Honig also opines that even if Martinez Guardado is not subject to torture, as defined in 22 C.F.R. § 95.1, that he would be subject to, as described by the DOS's response letter, mistreatment that raises significant humanitarian concerns. Nothing in the DOS's surrender letter properly addresses, much less ensures, that it is not more likely than not that Mr. Martinez Guardado will be mistreated in a significantly inhumane manner, if extradited to Honduras.

The DOS's words ring hollow. It represents that it takes appropriate steps, which may include obtaining information or commitments from Honduras, to address Mr. Martinez Guardado's concerns. Yet, it fails to explain what, if any appropriate steps were taken, or what information and/or commitments may have been agreed to by Honduras to protect Mr. Martinez Guardado. As the factfinder tasked with determining the merits of Mr. Martinez Guardado's request for relief, this Court is left to speculate whether the DOS has taken appropriate action to ensure that he is protected, simply on the weight of a conclusory and factually unsupported claim.

Second, without any factual support, the DOS simply "confirms" that the decision to surrender Mr. Martinez Guardado to Honduras complies with the United States' obligations under the Convention and its implementing statute and regulations. Again, this is a conclusory claim, devoid of any factual support for this Court to determine if Mr. Martinez Guardado is protected after he is surrendered to Honduras. This should not be

sufficient to assuage a *bona fide* preoccupation about torture and other significant humanitarian concerns. To accept the DOS's claims in their current form would effectively render Martinez Guardado's habeas process an empty and meaningless exercise.

Lastly, much has changed since Mr. Martinez Guardado filed his original (and premature) habeas claim in December 2024. The Trump administration has taken an overly aggressive and often legally questionable - if not outrightly lawless - approach to representing facts in our federal district courts. This is now recurrent and a matter of public record. *See* The Editorial Board. "'Egregious' 'Brazen.' 'Lawless.'" How 48 Judges Describe Trump's Actions, in Their Own Words." New York Times, July 12, 2025. **Exhibit C.** It behooves this Court to be significantly cautious when weighing the fact-less and conclusory claims by the DOS in its letter response, in addressing Martinez Guardado's concerns about torture and other significantly inhumane treatment if surrendered to Honduras. This unfortunate reality underscores the need for much more than what the DOS presents in its response. Respectfully, the manner in which the administration's agencies and their representatives now routinely address an opponent's legal claims compel the Court to require well-documented and candid factual bases to support their claims that Mr. Martinez Guardado stands a less than probable chance of suffering torture or other significantly inhumane treatment when he is surrendered to Honduras.

DUE PROCESS

The habeas statute provides that a federal district court may entertain a habeas application by a person held “in custody under or by color of the authority of the United States,” or “in custody in violation of the Constitution or laws or treaties of the United States.” *See Munaf v. Geren*, 553 U.S. 674, 685 (U.S. 2008) (citing 28 U.S.C. §§ 2241(c)(1), (3)). In *Munaf*, the Supreme Court determined that a United States District Court did not have habeas jurisdiction to release from custody two United States Citizen detainees (Munaf and Omar) who voluntarily traveled to and were charged by Iraq with having committed crimes under Iraqi law. Unlike our situation, the “[p]etitioners [t]here allege[d] only *the possibility* of mistreatment in a prison facility...[and] not a more extreme case in which the Executive has determined that a detainee is likely to be tortured but decides to transfer him anyway.” *Id.* at 702 (emphasis added). Specifically, the Court noted that though the “[p]etitioners briefly argue[d] that their claims of potential torture *may not be readily dismissed* on the basis of these principles because the FARR Act prohibits transfer *when torture may result*...[n]either petitioner asserted a FARR Act claim in his petition for habeas, and the Act was not raised in any of the certiorari filings before this Court,” adding that “[e]ven in their merits brief...the habeas petitioners hardly discuss[ed] the issue.” *Id.* at 703 (emphasis added). “Under such circumstances,” the Court “[would] not consider the question [of torture].” *Id.*

Moreover, “[the] United States [there] explain[ed] that, although it remain[ed] concerned about torture among some sectors of the Iraqi Government, the State Department ha[d] determined that the Justice Ministry—the department that would have

authority over Munaf and Omar—as well as its prison and detention facilities ha[d] ‘generally met internationally accepted standards for basic prisoner needs.’” *Id.* No such vote of confidence has even remotely ever been proclaimed by the government about state prisons in Honduras. In fact, an opposite conclusion is reached by Honduran prison expert Huyser-Honig, and the DOS’s own reports about a failed Honduran prison system.

Mr. Martinez Guardado has presented compelling evidence that he is likely to be tortured upon his surrender to Honduras. Expressing a more expansive application of the Due Process Clause to extradition cases, in a concurrence, Justice Souter, joined by Justices Ginsburg and Breyer, joined the majority opinion in denying relief, but only after considering the particular “circumstances essential to the Court’s holding,” which included the government’s assurance that “the department that would have authority over Munaf and Omar . . . as well as its prison and detention facilities...generally met internationally accepted standards for basic prisoner needs.” *Id.* at 706. Justice Souter wrote:

The Court accordingly reserves judgment on an “extreme case in which the Executive has determined that a detainee [in United States custody] is likely to be tortured but decides to transfer him anyway.” (citation omitted) I would add that nothing in today’s opinion should be read as foreclosing relief for a citizen of the United States who resists transfer, say, from the American military to a foreign government for prosecution in a case of that sort, **and I would extend the caveat to a case in which the probability of torture is well documented, even if the Executive fails to acknowledge it.** Although the Court rightly points out that any likelihood of extreme mistreatment at the receiving government’s hands is a proper matter for the political branches to consider (citation omitted), **if the political branches did favor transfer it would be in order to ask whether substantive due process bars the Government from consigning its own people to torture.** And although the Court points out that habeas is aimed at securing release, not protective detention (citation omitted), habeas would not be the

only avenue open to an objecting prisoner; “where federally protected rights [are threatened], it has been the rule from the beginning that courts will be alert to adjust their remedies so as to grant the necessary relief,” *Bell v. Hood*, 327 U.S. 678, 684, 66 S. Ct. 773, 90 L. Ed. 939 (1946).

Id. at 706-707. (emphasis added)

The facts envisioned by the concurring justices in *Munaf* are clearly present in our case. Mr. Martinez-Guardado’s case *is* the extreme case in which the Executive (in part by way of its own DOS reports) has determined that a detainee is likely to be tortured but decides to transfer him anyway. *Munaf*’s concurrence would extend the caveat to a case in which the probability of torture is well documented, even if the Executive - here the DOS - fails to acknowledge it. In *Munaf*, *any likelihood* of extreme mistreatment at the receiving government’s hands is a proper matter for the political branches to consider, so that if the DOS favors transfer, it would be in order for this Court to ask whether substantive due process bars the Government from consigning Mr. Martinez Guardado to torture. Mr. Martinez Guardado seeks release from the extradition process, so that his claim falls squarely within what the habeas model was designed to remedy. Yet, the Supreme Court was so concerned about events such as Mr. Martinez Guardado’s, that it was compelled to clarify that habeas would not be the only avenue open to an objecting prisoner, because where federally protected rights are threatened, it has been the rule from the beginning that courts will be alert to adjust their remedies so as to grant the necessary relief.

Mr. Martinez Guardado's presents the perfect facts under *Munaf* to justify the exercise of this Court's habeas jurisdiction, to prohibit his extradition and surrender that that all but guarantees his torture, or even death.

PRAYER FOR RELIEF

WHEREFORE, Mr. Martinez Guardado respectfully requests that the Court:

1. Assume jurisdiction over this matter;
2. Issue an order staying Martinez Guardado's surrender to Honduras pending the determination of his habeas petition on its merits;
3. Issue an order directing Respondents to show cause why the writ should not be granted;
4. Provide the Petitioner with a hearing and be allowed a meaningful opportunity to demonstrate the illegality of the DOS's actions with respect to Mr. Martinez Guardado's extradition and order of surrender;
5. Order the necessary discovery that is in the possession of the federal government's agencies, and that all such documentation be turned over for inspection by Counsel for Mr. Martinez Guardado, or alternatively, that it be turned over to the Court for its own inspection, and that it be made part of the record for appeal, if an appeal becomes necessary;
6. Order Respondents to cancel Petitioner's extradition;
7. Deny the Petitioner's surrender to Honduras;
8. Order the release of Petitioner;

9. Grant reasonable attorneys' fees, costs, and other disbursements pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412; and,
10. Grant such and further relief as the Court deems just and proper.
11. In the event that this Court denies Mr. Martinez Guardado's petition, he requests that this Court stay his surrender to Honduras for 7 days, to allow the filing of a notice of appeal with the Fifth Circuit Court of Appeals, and a corresponding motion for stay with that Court. ⁴

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⁴ Mr. Martinez Guardado's motion to stay his surrender has been filed in a separate pleading contemporaneously with this petition.

CERTIFICATE OF SERVICE

I certify that on July 22, 2025, a copy of the foregoing was served by Notification of Electronic Filing and was delivered by email to the office of Assistant United States Attorney John Ganz.

By /s/ George W. Aristotelidis
GEORGE W. "JORGE" ARISTOTELIDIS