UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

MELVIN MARTINEZ GUARDADO, **Petitioner,**	§	
v.	§	
HRIOMICHI KOBAYASHI et al,	§	**Civil Action No. 4:25-CV-3305**
Respondents.	§	

GOVERNMENT'S RESPONSE IN OPPOSITION TO AMENDED PETITION FOR WRIT OF HABEAS CORPUS AND MOTION FOR EXPEDITED DECISION

The United States of America, by and through Nicholas J. Ganjei, United States Attorney for the Southern District of Texas, and Assistant United States Attorney John Ganz, submits this response in opposition to Petitioner Melvin Martinez Guardado's Amended Petition for Writ of Habeas Corpus (ECF 7). The United States further moves for an expedited decision for the reasons explained below.

I. INTRODUCTION.

The Republic of Honduras ("Honduras") seeks to prosecute Petitioner Melvin Martinez Guardado ("Martinez Guardado" or "Petitioner") for homicide in violation of Article 192 of the Honduran Criminal Code. On November 19, 2024, pursuant to 18 U.S.C. § 3184 and the extradition treaty between the United States and Honduras[1], United States Magistrate Judge Andrew Edison of the Southern District of Texas, after an extradition hearing, certified to the U.S. Secretary of State (the "Secretary") that Martinez Guardado may be extradited to Honduras for this offense. (Case No. 3:24-MJ-0006, ECF 25 (the "Certification").)

[1]Convention Between the United States and Honduras for the Extradition of Fugitives from Justice, U.S.-Hond., Jan. 15, 1909, 37 Stat. 1616, *as amended by* the Supplementary Extradition Convention Between the United States of America and the Republic of Honduras, Feb. 21, 1927, 45 Stat. 2489 (together, the "Extradition Treaty").

Martinez Guardado challenged the Certification by petitioning for a writ of habeas corpus and simultaneously challenged his extradition by making a submission to the Secretary of State. (*See* Case No. 4:24-CV-4862.) The gravamen of Petitioner's claim in his first habeas petition was that he will be tortured if extradited to Honduras. (*Id.* ECF 1, 7.) Because the Secretary had not yet made a surrender decision, the Court on April 3, 2025 dismissed Petitioner's torture-related claims as unripe. (*Id.*, ECF 9.)

Subsequently, the Secretary of State (through his designee) determined that Petitioner should be extradited to Honduras to answer to criminal charges there and that his extradition will not violate the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Feb. 4, 1985, S. Treaty Doc. No. 10-20, 1465 U.N.T.S. 85 (Convention or the "CAT"), and its implementing statute and regulations. The Department of State sent Petitioner a letter affirming "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." Ex. 1, State Department Letter.

Petitioner filed the instant action on July 17, 2025, filing both a Petition for Writ of Habeas Corpus and a Motion to Stay. (ECF 1, 3.) Petitioner subsequently amended those filings. (ECF 7, 10, 12.) The Government has filed a Response opposing the operative Motion to Stay in which it incorporates the arguments it propounds here. (ECF 14.) This Response addresses the operative Petition for Writ of Habeas Corpus (ECF 7).

Petitioner here repeats the same arguments he made in his earlier Petition. He primarily argues that various humanitarian concerns, including alleged conditions in Honduran prisons, warrant an unprecedented exception to the long-established rule of judicial non-inquiry. In doing so, he relies on the "CAT" and related federal law.

None of Petitioner's claims warrant relief. Under the long-standing rule of judicial non-inquiry—something conspicuously absent from the Petition—Petitioner's claims about the alleged conditions he will face in Honduras if extradited are not judicially-reviewable and instead fall solely within the authority of the Secretary of State to decide. Indeed, as a matter of history and practice, habeas courts in extradition cases have never been authorized to adjudicate humanitarian or CAT claims. The scant authority Petitioner cites to support his position come from out-of-circuit decisions (*Trinidad Garcia* and *Venckiene*) that provided narrow rulings in factually-distinct scenarios that do not change the analysis here or, if anything, support the Government's position. Critically, Petitioner has already received all the process that he would be afforded even under the approach of the circuit most favorable to him: even under *Trinidad*, all that due process requires is confirmation that the Secretary of State (or his designee) complied with his obligations under the CAT, and there is such evidence in this case, as demonstrated by the letter the Department of State sent to Petitioner. Ex. 1. The record thus includes "evidence that the Secretary has complied with" his "statutory and regulatory obligations" regarding the CAT. *Trinidad y Garcia* v. *Thomas*, 683 F.3d 952, 957 (9th Cir. 2012) (en banc) (per curiam), cert. denied, 568 U.S. 1114 (2013). That letter definitively ends this Court's inquiry. *Id.* The Fifth Circuit's *Escobedo* decision binds this Court and directs it to deny the Petition. The Court should rule accordingly and do so expeditiously given the fast-approaching termination of the Extradition Treaty.

II. FACTUAL AND PROCEDURAL HISTORY.

A judge in Honduras issued an arrest warrant for Petitioner on March 23, 2022, after multiple eyewitnesses saw Petitioner shoot and kill a man in a liquor store on December 19, 2020. (*See* 3:24-MJ-006, ECF 1 at 2-3, 106-111.). Honduras thereafter requested Petitioner's extradition from the United States pursuant to the Extradition Treaty, and the Government filed its Complaint

in support of extradition on September 24, 2024. (*See* Case No. 3:24-MJ-006, ECF 1.). The Government submitted with the Complaint a declaration from the U.S. Department of State stating, *inter alia*, that "on August 28, 2024, the Republic of Honduras provided notice to the United States of America through diplomatic note of its decision to terminate the Extradition Treaty"; that "absent a further notice by the Republic of Honduras that withdraws or materially modifies its notice to terminate the Extradition Treaty, the Extradition Treaty . . . will terminate on March 1, 2025"; and that "the Extradition Treaty remains in full force and effect between the United States and Honduras, and Melvin Martinez Guardado may be extradited pursuant to the Extradition Treaty during such time that the Extradition Treaty remains in full force and effect." (*See* 3:24-MJ-006, ECF 1 at 20-21.)[2] The Treaty's termination date was subsequently extended to February 7, 2026. (*See* Case No. 4:24-CV-4862, ECF 7.)

Petitioner was arrested on Honduras's extradition request on September 27, 2024 in the Southern District of Texas. During the extradition proceedings, Petitioner's only challenge to the Government's request for certification was his contention that the Extradition Treaty was no longer in effect. (*See* 3:24-MJ-006, ECF 21.)

On November 1, 2024, Judge Edison held an extradition hearing pursuant to 18 U.S.C. § 3184. (*Id.*, ECF 22.) The sole issue before the Court was whether the Extradition Treaty was currently in full force and effect between Honduras and the United States. The Government submitted supplemental briefing on November 15, 2024. (*Id.*, ECF 24.) On November 19, 2024, Judge Edison rejected Petitioner's argument and issued the Certification. (*Id.*, ECF 25) ("The

[2]The declaration also noted that "[t]he Republic of Honduras may at any time prior to March 1, 2025, withdraw its notice of termination, in which case the Extradition Treaty will not terminate and will remain in full force and effect between the United States of America and the Republic of Honduras"; and that, "[i]f the Extradition Treaty terminates prior to the United States surrendering Melvin Martinez Guardado to the Republic of Honduras, the United States will not extradite Melvin Martinez Guardado to Honduras [because t]he United States generally cannot extradite in the absence of a treaty."

United States has easily satisfied its burden to demonstrate that the Extradition Treaty is presently in full force and effect."). Judge Edison found that Honduras's extradition request satisfied the requirements of the Extradition Treaty; that Martinez Guardado's conduct fell within the scope of the Extradition Treaty; and that probable cause existed to believe Martinez Guardado committed the Honduran offense of homicide.

Martinez Guardado filed his first habeas petition challenging the Certification on December 6, 2024. (Case No. 4:24-CV-4862, ECF 1). He did not challenge the Certification Order. The gravamen of his argument was instead that he would be tortured while in custody if extradited to Honduras. Petitioner also simultaneously submitted materials to the Secretary of State seeking denial of extradition.

The State Department at that time had not issued a surrender decision. On April 3, 2025, Senior United States District Judge Ewing Werlein, Jr. dismissed with prejudice Petitioner's claims, if any, regarding the certification of his extradition. Judge Werlein dismissed Petitioner's torture-related claims without prejudice as "not ripe for adjudication" because at that time, the Secretary of State had not yet decided whether to issue a surrender warrant. (Case 4:24-CV-4862, ECF 9.)

The Secretary of State (through his designee) considered and denied Petitioner's request, determining that Petitioner should be extradited to Honduras to answer to criminal charges there and that his extradition will not violate the CAT and its implementing statute and regulations. On July 14, 2025, Noah Browne, an Attorney Adviser in the Office of the Legal Adviser for Law Enforcement and Intelligence at the Department of State, sent Petitioner a letter stating that, "[f]ollowing a review of all pertinent information, including the materials and filings submitted to the Secretary and the United States District Court for the Southern District of Texas on behalf of

Mr. Martinez Guardado, on July 7, 2025, the Deputy Secretary of State decided to authorize Petitioner's surrender to Honduras, pursuant to 18 U.S.C. § 3186 and the Extradition Treaty between United States and Honduras." Ex. 1.

The letter further stated:

> As a party to the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (the "Convention"), the United States has an obligation not to extradite a person to a country "where there are substantial grounds for believing that he would be in danger of being subjected to torture." Pursuant to the implementing regulations found at 22 C.F.R. part 95, this obligation involves consideration of "whether a person facing extradition from the U.S. 'is more likely than not' to be tortured in the State requesting extradition."
>
> 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.
>
> As the official responsible for managing the Department's responsibilities in this case, I confirm 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.

Id.

In response, Petitioner filed the instant action on July 17, 2025 by filing a Petition for Writ of Habeas Corpus and an accompanying Motion to Stay. (ECF 1, 3.) Petitioner subsequently amended his filings. (ECF 7, 10, 11, 12.) He repeats (with slight modification) his previous arguments. For the reasons explained below, the Court should dismiss the Petition (ECF 7).

III. APPLICABLE LEGAL STANDARD.

A. A DISTRICT COURT'S HABEAS REVIEW OF A CERTIFICATION ORDER IS HIGHLY LIMITED.

Extradition is primarily an executive function with a carefully-limited role for a judicial officer who is statutorily-authorized to determine whether to certify to the Secretary of State that the alleged fugitive is extraditable. 18 U.S.C. §§ 3184, 3186; *Lo Duca v. United States*, 93 F.3d 1100, 1104 (2d Cir. 1996).

Specifically, the extradition court's inquiry is limited to five factors: (1) whether the judicial officer is authorized to conduct the extradition proceeding; (2) whether the court has jurisdiction over the fugitive; (3) whether the applicable extradition treaty is in full force and effect; (4) whether the treaty covers the offense for which extradition is requested; and (5) whether there is sufficient evidence to support a finding of probable cause as to the offense for which extradition is sought. *See* 18 U.S.C. § 3184; *see also Skaftouros v. United States*, 667 F.3d 144, 154-55 (2d Cir. 2011). Because of the narrow scope of extradition proceedings, Martinez Guardado's rights at the extradition hearing were strictly circumscribed, thereby limiting Magistrate Judge Edison's task.[3]

This Court's task in reviewing the Certification is even *more* limited. Extradition certifications are not directly appealable. "Rather, if review is to be had at all it must be pursued by a writ of habeas corpus." *Jhirad v. Ferrandina*, 536 F.2d 478, 482 (2d Cir. 1976) ("*Jhirad II*") (citing *Shapiro*, 478 F.2d 894). "The scope of habeas corpus review of a magistrate's extradition

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[3] "[F]ugitives do not benefit from many of the protections that are traditionally accorded to defendants in the criminal context." *Skaftouros*, 667 F.3d at 155 n.16 (2d Cir. 2011). Neither the Federal Rules of Criminal Procedure nor the Federal Rules of Evidence apply. Hearsay is admissible, unsworn statements of absent witnesses can be considered, and there is no right to confrontation or cross-examination. *Id.* (collecting cases). The fugitive has no right at an extradition hearing to "introduce evidence to rebut that of the prosecutor," and while the extradition court has discretion to permit "explanatory testimony," the accused "may not offer proof which contradicts that of the demanding country." *Messina v. United States*, 728 F.2d 77, 80 (2d Cir. 1984).

order is quite narrow." *Escobedo v. United States*, 623 F.2d 1098, 1101 (5th Cir. 1980); *see also Bingham v. Bradley*, 241 U.S. 511, 517 (1916). Indeed, the Supreme Court has repeatedly held that habeas review of extradition decisions is more limited than review on appeal. *See, e.g., Fernandez v. Phillips*, 268 U.S. 311, 312 (1925) (habeas corpus "cannot take the place of a writ of error. It is not a means for rehearing what the magistrate has decided"); *Collins v. Miller (Collins I)*, 252 U.S. 364, 369 (1920) ("[I]t is ordinarily beyond the scope of the review afforded by a writ of habeas corpus to correct error in the proceedings."). This is a "procedural idiosyncrasy" that has "important substantive consequences," *Jhirad*, 536 F.2d at 482. A habeas court can only "inquire whether the magistrate had jurisdiction, whether the offense charged is within the treaty, and, by a somewhat liberal extension, whether there was *any evidence* warranting the finding that there was reasonable ground to believe the accused guilty." *Id.* (quoting *Fernandez*, 268 U.S. at 312 (emphasis added); *see also, e.g., Jimenez v. Aristeguieta*, 311 F.2d 547, 555 (5th Cir. 1962); *Skaftouros*, 667 F.3d at 157. Within that narrow scope of review, "[p]urely legal questions are reviewed de novo by the habeas court, while purely factual questions are reviewed under the clearly erroneous standard." *Sandhu v. Bransom*, 932 F. Supp. 822, 825 (N.D. Tex. 1996) (citing *Quinn v. Robinson*, 783 F.2d 776, 790-91 (9th Cir. 1986)). Martinez Guardado raises none of these issues here.

Habeas challenges in the extradition context are asymmetrical proceedings "in which a prisoner seeks to overturn a presumptively valid judgment. . . ." *Skaftouros*, 667 F.3d at 158 (quoting *Pinkney v. Keane*, 920 F.2d 1090, 1094 (2d Cir. 1990)). Given that the Certification is presumptively lawful, Petitioner bears the burden of proving by a preponderance of the evidence that he is unlawfully in custody. *Id.* The instant habeas proceedings are "not a means for rehearing

what the magistrate already has decided. The alleged fugitive from justice has had his hearing." *Skaftouros*, 667 F.3d at 158 (quoting *Fernandez*, 268 U.S. at 312).

B. APPLICABLE LAW VESTS THE EXECUTIVE BRANCH WITH PRIMARY AUTHORITY OVER EXTRADITIONS. THE JUDICIARY'S ROLE IS HIGHLY LIMITED.

Extradition proceedings are governed by both 18 U.S.C. § 3184 *et. seq.* and the extradition treaty between the country requesting extradition and the country in which the fugitive is found. *Allen v. Schultz*, 713 F.2d 105, 108 (5th Cir. 1983); *In re Lahoria*, 932 F. Supp. 802, 805 (N.D. Tex. 1996).

Section 3184 establishes procedures for extradition and allocates responsibilities between extradition judges and the Secretary of State. The Executive Branch in the form of the Secretary of State remains primarily responsible for extradition, while the extradition judge is assigned the limited duty of determining the sufficiency of the extradition request under the applicable treaty provisions. 18 U.S.C. § 1384; *Martin v. Warden, Atlanta Penitentiary*, 993 F.2d 824, 828-829 (11th Cir. 1993); *see also Ordinola v. Hackman*, 478 F.3d 588, 608 (4th Cir. 2007) (Traxler, J., concurring) ("[T]he judiciary plays a limited role in the overall extradition process, as prescribed by Congress in the Extradition Act."). The judicial function is carried out by conducting the hearing called for by 18 U.S.C. § 3184.

Once the extradition judge has certified the case, as here, the matter shifts to the Secretary of State to make the final decision whether to surrender the fugitive. 18 U.S.C. § 3186; *Allen*, 713 F.2d at 108. It is well-settled that the "ultimate decision to extradite is a matter within the exclusive prerogative of the Executive [Branch] in the exercise of its powers to conduct foreign affairs." *Escobedo*, 623 F.2d. at 1105; *see also, e.g., United States v. Kin-Hong*, 110 F.3d 103, 110 (1st Cir.

1997) (following judicial certification, the "larger assessment of extradition and its consequences is committed to the Secretary of State"); *Shapiro v. Sec'y of State*, 499 F.2d 527, 531 (D.C. Cir. 1974) ("Subject to judicial determination of the applicability of the existing treaty obligation of the United States to the facts of a given case, extradition is ordinarily a matter within the exclusive purview of the Executive."). Because extradition is ultimately a question of foreign policy, the surrender decision is entirely discretionary—the Secretary is not required to surrender a fugitive who has been certified as eligible for extradition. 18 U.S.C. § 3186 (Secretary "may" order the fugitive to be delivered to the requesting country); *Escobedo*, 623 F.2d at 1105, n.20.

This "bifurcated procedure reflects the fact that extradition proceedings contain legal issues peculiarly suited for judicial resolution, such as questions of the standard of proof, competence of evidence, and treaty construction, yet simultaneously implicate questions of foreign policy, which are better answered by the executive branch." *Kin-Hong*, 110 F.3d at 110. "The Secretary exercises broad discretion and may properly consider myriad factors affecting both the individual defendant as well as foreign relations, which an extradition magistrate may not." *Martin*, 993 F.2d at 829. The surrender of a fugitive to a foreign government is thus "purely a national act . . . performed through the Secretary of State" within the Executive's "power to conduct foreign affairs." *In re Kaine*, 55 U.S. (14 How.) 103, 110 (1852); *Blaxland v. Commonwealth Dir. of Pub. Prosecutions*, 323 F.3d 1198, 1207 (9th Cir. 2003) ("[E]xtradition is a diplomatic process carried out through the powers of the executive, not the judicial, branch.").

C. THE RULE OF NON-INQUIRY PRECLUDES COURTS FROM EVALUATING FOREIGN JUSTICE SYSTEMS IN EXTRADITION MATTERS.

The well-established rule of non-inquiry precludes courts from adjudicating issues of foreign law and "bars courts from evaluating the fairness and humaneness of another country's

criminal justice system, requiring deference to the Executive Branch on such matters." *Hilton v. Kerry*, 754 F.3d 79, 84-85 (1st Cir. 2014) (citation and quotation marks omitted); ; *see also Gomez v. United States*, 140 F.4th 49, 59 (2d Cir. 2025) (fugitive's argument that the magistrate judge and district court erred by failing to consider that he was likely to be tortured or killed in the event he was extradited was "a nonstarter" because "the degree of risk to [the fugitive's] life from extradition is an issue that properly falls within the exclusive purview of the executive branch" and "[i]t is the function of the Secretary of State – not the courts – to determine whether extradition should be denied on humanitarian grounds") (internal quotation marks and citations omitted). The Rule is "shaped by concerns about institutional competence and by notions of separation of powers." *Kin-Hong*, 110 F.3d at 110. As the Supreme Court has held, federal courts are ill-suited to "pass judgment on foreign justice systems," which carry sensitive foreign policy implications that must be addressed by the Executive Branch. *Munaf v. Geren*, 553 U.S. 674, 702 (2008). Further, the Executive Branch "possess[es] significant diplomatic tools and leverage the judiciary lacks" to ensure a fugitive is treated humanely upon being returned if the extradition request is granted. *Id.* at 703; *see also, e.g., Kin-Hong*, 110 F.3d at 110 ("The State Department alone, and not the judiciary, has the power to attach conditions to an order of extradition."). The rule of non-inquiry thus respects the unique province of the Executive Branch to ensure that the United States upholds its obligations under its extradition treaties and to evaluate claims of possible mistreatment at the hands of a foreign state, as well as to obtain assurances of proper treatment (if warranted), to provide for appropriate monitoring overseas of a fugitive's treatment, and to exercise its exclusive responsibility for conducting foreign relations.

Critically, the rule of non-inquiry does not prevent fugitives from having their torture or other treatment claims carefully considered. To the contrary, its role is to protect the ability for such claims to be considered by the branch of government most capable of assessing and addressing likely conditions fugitives will face if extradited.

The Petition is thunderously silent as to this fundamental standard.

IV. ARGUMENT.

This Court's habeas decision of April 3, 2025 dismissed with prejudice Petitioner's claims, if any, regarding the certification of his extradition, and Martinez Guardado does not, in the instant Petition raise any claims challenging any of the five certification factors. As in his first petition, he argues only that his habeas petition should be granted because of various humanitarian concerns, including alleged conditions in Honduran prisons. Petitioner cannot meet his burden because the Supreme Court, the Fifth Circuit and myriad other courts have uniformly and repeatedly held that such humanitarian claims are reserved exclusively for the Secretary of State's consideration and are not judicially-reviewable in extradition proceedings or in habeas challenges to extradition.

Petitioner argues that his extradition violates the CAT, the Foreign Affairs Reform and Restructuring Act of 1998 (the "FARR Act"), the State Department's regulations implementing the CAT and the FARR Act, the Due Process Clause of the Fifth Amendment to the U.S. Constitution, and the Suspension Clause of the U.S. Constitution. He is wrong, and his arguments are precluded by binding precedent. As shown *infra*, "the degree of risk to [a fugitive's] life is an issue that falls within the exclusive purview of the executive branch." *Escobedo*, 623 F.2d at 1107 (internal quotation marks and citation omitted); *see also, e.g.*, *Hoxha v. Levi*, 465 F.3d 554, 563 (3d Cir. 2006); *In re Extradition of Mujagic*, 990 F. Supp. 2d 207, 227-228 (N.D.N.Y. 2013); *Gill v. Imundi*,

747 F. Supp. 1028, 1049-50 (S.D.N.Y. 1990). "Review by habeas corpus . . . tests only the legality of the extradition proceedings; the question of the wisdom of extradition remains for the executive branch to decide." *Wacker v. Bisson*, 348 F.2d 602, 606 (5th Cir. 1965).

A. THE RULE OF NON-INQUIRY BARS THE COURT FROM REVIEWING PETITIONER'S CAT CLAIM.

Petitioner claims that this Court has authority to stop his extradition because he will be tortured and otherwise subjected to inhumane prison conditions if extradited to Honduras. Courts, however, have long recognized that it is the responsibility of the Secretary of State to evaluate claims regarding the treatment a fugitive may face in a requesting country. Under the rule of non-inquiry, review of a fugitive's claim that he will be mistreated if extradited falls outside the narrow scope of the extradition magistrate's authority to certify an extradition, beyond the concomitantly narrow scope of any review of that certification in habeas proceedings by a District Court, and beyond the court's authority in any subsequent appeal of a denial of habeas. Thus, "federal courts have [traditionally] refused to consider questions relating to the . . . treatment that might await an individual on extradition." *In re Manzi*, 888 F.2d 204, 206 (1st Cir. 1989). Courts, including the Fifth Circuit, have instead "chosen to defer these questions to the executive branch because of its exclusive power to conduct foreign affairs." *Id.* at 206; *see also, e.g., Escobedo*, 623 F.2d at 1107; *Sindona v. Grant*, 619 F.2d 167, 174-75 (2d Cir. 1980) ("[T]he degree of risk to Sindona's life from extradition is an issue that properly falls within the exclusive purview of the executive branch."); *Hoxha*, 465 F.3d at 563-64 (noting that the rule of non-inquiry precludes judicial review of the Secretary of State's extradition decision); *accord Peroff v. Hylton*, 563 F.2d 1099, 1102 (4th Cir. 1977) (per curiam); *Quinn*, 783 F.2d at 789-90.

Indeed, each circuit to have addressed the issue has recognized that a habeas court may not review the substance of the Secretary's determination that a fugitive, if extradited, is not more likely than not to be tortured. *Gomez*, 140 F.4th at 59, application for a stay of extradition denied, No. 24A1218, 2025 WL 1942064 (July 15, 2025); *Kapoor v. DeMarco*, 132 F.4th 595, 612-13 (2d Cir. 2025); *Sridej v. Blinken*, 108 F.4th 1088, 1093 (9th Cir. 2024), application for a stay of extradition denied, No. 24A236, 2024 WL 4110047 (Sept. 6, 2024); *Omar v. McHugh*, 646 F.3d 13, 19 (D.C. Cir. 2011); *Mironescu v. Costner*, 480 F.3d 664, 676 (4th Cir. 2007), cert. dismissed, 552 U.S. 1135 (2008).[4]

"The rule of [judicial] non-inquiry, like extradition procedures generally, is shaped by concerns about institutional competence and by notions of separation of powers." *Kin-Hong*, 110 F.3d at 110. "It is not that questions about what awaits the [fugitive] in the requesting country are irrelevant to extradition; it is that there is another branch of government, which has both final say and greater discretion in these proceedings, to whom these questions are more properly addressed." *Id.* at 111.

Just as courts have an established practice of non-inquiry, the Executive Branch has well-established procedures for diligently considering and addressing claims regarding treatment in extradition cases, as this case demonstrates. As the State Department noted in its July 14 letter,

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[4] In *Gallina v. Fraser*, 278 F.2d 77, 79 (2d Cir. 1960), the Second Circuit speculated that, hypothetically, there could be an extreme case warranting an exception to the rule of non-inquiry. But the Second Circuit's subsequent decision in *Ahmad v. Wigen*, 910 F.2d 1063 (2d Cir. 1990), "definitively foreclosed such review by a habeas corpus judge[.]" *In re Extradition of Cheung*, 968 F. Supp. 791, 799 (D. Conn. 1997) (citing *Ahmad*, 910 F.2d at 1066); *Gill*, 747 F. Supp. at 1049 ("the promise of *Gallina*'s dictum [has] . . . been excised" by *Ahmad*); *see also, e.g.*, *Hoxha*, 465 F.3d at 564 n.14 ("no federal court has applied [*Gallina*] to grant habeas relief in an extradition case."); *Hilton*, 754 F.3d at 87 ("[n]o court has yet applied such a theoretical Gallina exception" and "we decline to apply such an exception"); *Gomez v. United States*, 140 F.4th 49, 59 (2d Cir. 2025) ("[W]hile Lalama Gomez hangs onto our dicta in *Gallina v. Fraser* . . . no court has ever found such an exception to the rule of non-inquiry . . . . Accordingly, we conclude that the district court did not err in declining to consider potential humanitarian concerns in Ecuador in reviewing Lalama Gomez's habeas petition."); *Kapoor*, 132 F.4th at 612 n.18 ("courts have noted the hypothetical 'exception' we mentioned in *Gallina*, but none has applied it").

"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." Ex. 1. The Department of State thus reviewed Petitioner's torture claim based on a careful and longstanding approach consistent with the United States' treaty obligations, FARRA and 18 U.S.C. 3186, and the State Department's regulations at 22 C.F.R. Part 95.

Decisions from the Fifth Circuit and this Court enshrine the rule of judicial non-inquiry. *See, e.g.*, *Escobedo*, 623 F.2d at 1107 ("[T]he degree of risk to [the fugitive's] life from extradition is an issue that properly falls within the exclusive purview of the executive branch.") (internal quotation marks and citation omitted) (approving refusal to entertain U.S. citizen's allegation that he may be tortured or killed if surrendered to Mexico); *accord Ntakirutimana v. Reno*, 184 F.3d 419, 430 (5th Cir. 1999) ("Due to the limited scope of habeas review, we will not inquire into the procedures that await [the fugitive]"); *In re Extradition of Garcia*, 825 F. Supp. 2d 810, 839 (S.D. Tex. 2011) ("[T]he Fifth Circuit has expressly held that "'the degree of risk to [an extraditee's] life from extradition is an issue that properly falls within the exclusive purview of the executive branch.'") (citing *Escobedo*, 623 F.2d at 1107); *In re Nava Gonzalez*, 305 F. Supp. 2d 682, 693 n.26 (S.D. Tex. 2004) ("the potentially life-threatening risks which Respondent may face as an ex-policeman in Mexico are properly addressed to the executive branch"). In short, "[a]ssuming that the [extradition] magistrate's decision is in favor of extradition, the Executive's discretionary determination to extradite the fugitive – even one who is a United States national – is not generally subject to judicial review." *Escobedo*, 623 F.2d at 1105.

No court has created a humanitarian exception to the rule of non-inquiry, and this case warrants no exception. Petitioner can, and already has, raised his torture concerns with the Secretary of State. The Secretary of State's designee, who is in the best position to determine whether Petitioner's extradition is appropriate in light of his claims, denied Petitioner's request and confirmed that in doing so the State Department complied with its obligations under the CAT and governing law. Thus, this Court should neither inquire into, nor rule on, the state of Honduras's justice system or the treatment that Petitioner will receive and should not second-guess the careful consideration of, or the substance of the final decision of, the Secretary of State or his designee. *See Escobedo*, 623 F.2d at 1107; *Kin-Hong*, 110 F.3d at 111 (1st Cir. 1997); *Koskotas v. Roche*, 931 F.2d 169, 174 (1st Cir. 1991) ("principles of international comity . . . would be ill-served by requiring foreign governments to submit their purposes and procedures to the scrutiny of United States courts"); *In re Assarsson*, 635 F.2d 1237, 1244 (7th Cir. 1980). Petitioner's failure to directly address the rule of non-inquiry's impact on his claims implicitly acknowledges its fatal impact on his arguments.

B. PETITIONER'S DUE PROCESS CLAIM FAILS BECAUSE THE RULE OF NON-INQUIRY PRECLUDES THIS COURT FROM INQUIRING INTO HIS HUMANITARIAN CLAIMS.

For the same reasons, Petitioner's claim that his extradition to Honduras would violate the Due Process Clause because he is likely to be tortured or killed once surrendered to Honduras is not a matter properly before the Court. As explained above, the rule of non-inquiry prohibits District Courts from granting habeas relief on this basis because applicable law charges the Secretary of State with assessing a requesting country's conditions of confinement. *See, e.g.*, *Kin-Hong*, 110 F.3d at 111; *In re Assarsson*, 635 F.2d at 1244 ("While our courts should guarantee that

all persons on our soil receive due process under our laws, that power does not extend to overseeing the criminal justice system of other countries."). The right to due process is not infringed when "[f]undamental principles in our American democracy limit the role of courts in certain matters, out of deference to the powers allocated by the Constitution to the President and to the Senate, particularly in the conduct of foreign relations." *Kin-Hong*, 110 F.3d at 106; *see also Martin*, 993 F.2d at 830 n.10 (noting the viability of the rule of non-inquiry despite potential due process challenges); *Sandhu v. Burke*, No. 97 CIV. 4608 (JGK), 2000 WL 191707, at *11-12 (S.D.N.Y. Feb. 10, 2000) (finding that extradition magistrate's refusal to consider evidence of corruption in India that had allegedly resulted in the charging of individuals with crimes they had not committed did not violate due process).

C. NEITHER THE CAT NOR THE FARR ACT PROVIDES FOR JUDICIAL REVIEW OF CAT CLAIMS IN EXTRADITION CASES.

Petitioner additionally cites the CAT, the FARR Act, and the FARR Act's implementing regulations in support of his requested relief. (ECF 7 at 23-24.) None of these, however, give this Court authority to do what Petitioner asks, nor do any of them alter the unavailability of judicial review of a decision that is within the exclusive purview of the Secretary of State. As discussed *infra*, the CAT is not self-executing, the FARR Act does not create jurisdiction for judicial review of claims under the CAT except in certain immigration proceedings, and the REAL ID Act makes doubly clear that specified immigration proceedings "shall be the sole and exclusive means for judicial review of any cause or claim under the [CAT]." Thus, the CAT did not alter the longstanding rule of non-inquiry; if anything, its implementing legislation cemented the fact that federal courts may not consider CAT claims in extradition cases.

As an initial matter, the CAT is not self-executing. As a party to the CAT, the United States is prohibited under Article 3 of the CAT from extraditing a person to a country where substantial grounds exist to believe the person would be in danger of being tortured. CAT, Art. 3. That article directs the "competent authorities" responsible for evaluating torture claims to "take into account all relevant considerations including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights." *Id.* Under the implementing regulations found at 22 C.F.R. § 95, this obligation involves the Department of State's consideration of whether the fugitive is more likely than not to be tortured in the country requesting extradition. Articles 1 through 16 of the CAT are not, however, self-executing, as Congress specified when it ratified the CAT. 136 Cong. Rec. 36, 198 (1990). Thus, "[t]he reference in Article 3 to 'competent authorities' appropriately refers in the United States to the competent administrative authorities who make the determination whether to extradite, expel, or return. . . . Because the Convention is not self-executing, the determinations of these authorities will not be subject to judicial review in domestic courts." S. Exec. Rep. No. 101-30, at 17-18 (1990). As a non-self-executing treaty, the CAT does not confer judicially-enforceable rights upon a private party such as Petitioner. *See Medellin v. Texas*, 552 U.S. 491, 505 n.2 (2008) ("[A] non-self-executing' treaty does not by itself give rise to domestically enforceable federal law. Whether such a treaty has domestic effect depends upon implementing legislation passed by Congress."); *see also id.* at 522 n.2, n.12 (citing with approval circuit court decisions that have found the CAT not to be self-executing). Petitioner therefore cannot seek relief based on the CAT, and the CAT is enforceable in federal court only to the extent provided for by Congress in implementing legislation. Congress has provided no such authority.

The implementing legislation for the CAT—the FARR Act—does not provide for judicial review of CAT claims in extradition cases. Congress implemented Article 3 of the CAT by enacting Section 2242 of the FARR Act, Pub. L. No. 105–277, § 2242, 112 Stat. 2681-822 (1998) (codified at 8 U.S.C. § 1231 note) (the "FARR Act"). Section 2242(a) of that Act states that it "shall be the policy of the United States not to expel, extradite, or otherwise effect the involuntary return of any person to a country in which there are substantial grounds for believing the person would be in danger of being subjected to torture." *Id.* § 2242(a). This statutory statement of U.S. policy, however, remains "just that—[a statement] of policy." *Comcast Corp. v. FCC*, 600 F.3d 642, 654 (D.C. Cir. 2010). Such policy statements do not create judicially-enforceable rights. *See Gonzaga Univ. v. Doe*, 536 U.S. 273, 288 (2002) (statutes that "'speak only in terms of institutional policy and practice' . . . cannot 'give rise to individual rights") (citation omitted).

The text of the FARR Act, moreover, underscores the fact that Congress did not intend to make claims under the CAT justiciable in extradition proceedings. In the subsection immediately following the statement of policy, Congress directed "the heads of the appropriate agencies" to "prescribe regulations to implement the obligations of the United States under Article 3" of the CAT. FARR Act § 2242(b). A neighboring subsection captioned "Review and Construction" shields those regulations from judicial review. *Id.* § 2242(d). It then expressly states that, with the exception of certain *immigration* proceedings, the statute does not provide for judicial review of any determination made with respect to the policy set forth in the FARR Act. *Id.*; *see also Munaf*, 553 U.S. at 703 n.6 ("claims under the FARR Act may be limited to certain immigration proceedings").

Specifically, Section 2242(d) of the FARR Act confirms that the statute does not confer courts with jurisdiction to review claims under the CAT outside the context of a final order of removal entered in an immigration case. It states:

> Notwithstanding any other provision of law, and except as provided in the regulations described in subsection (b), no court shall have jurisdiction to review the regulations adopted to implement this section, and *nothing in this section shall be construed as providing any court jurisdiction to consider or review claims raised under the [CAT] or this section*, or any other determination made with respect to the application of the policy set forth in subsection (a), *except as part of the review of a final order of removal* pursuant to section 242 of the Immigration and Nationality Act (8 U.S.C. [§] 1252).

FARR Act § 2242(d) (emphasis added).

Courts have held that this text makes plain Congress's expectation that courts in extradition cases would be "precluded from considering or reviewing [CAT or FARR Act] claims." *Mironescu,* 480 F.3d at 674; H.R. Conf. Rep. 105-432, at 150, 105th Cong., 2d. Sess. (1998) ("The provision agreed to by the conferees does not permit for judicial review of the regulations or of most claims under the Convention."); *see also Omar*, 646 F.3d at 24 (finding no right to review of surrender decision under FARR Act, habeas corpus, or due process; regardless of the particular source of law invoked by the petitioner, the rule of non-inquiry bars habeas relief where judicial review would require a court to second-guess the Secretary's assessment); *Juarez-Saldana v. United States*, 700 F. Supp. 2d 953, 958-61 (W.D. Tenn. 2010) (reviewing FARR Act and implementing regulations and holding that "Congress did not intend to make the Secretary of State's extradition decisions involving CAT claims subject to judicial review, and to the contrary, expressly prohibited such review"); *Yacaman Meza v. McGrew*, U.S. District Court for the Southern District of Florida Case No. 11-cv-60955, Order Adopting Report and Recommendation of Magistrate Judge and Dismissing Case, Jan. 6, 2014, Dkt. 50, at 8 (dismissing habeas petition challenging Secretary of State's surrender decision; citing rule of non-inquiry, *Munaf*, and FARR Act, district court adopts

magistrate's conclusion that "the Secretary of State's determination that Petitioner should be extradited is not subject to judicial review"). The U.S. District Court for the Eastern District of Texas has likewise adopted this approach. *See De La Rosa Pena v. Daniels*, Civil Action No. 1:13cv708, 2015 WL13730955 at *2-3 (E.D. Tex Dec. 11, 2015), *R&R adopted*, 2016 WL 463251 (E.D. Tex. Feb. 8, 2016).

Further, the State Department regulations prescribed pursuant to Section 2242(b) of the FARR Act make clear that CAT claims are not judicially-reviewable in the extradition context. The regulations establish internal procedures for addressing claims under the CAT, define the term "torture," designate the Secretary of State (or Deputy Secretary) as the U.S. official responsible for making a torture determination, require "appropriate policy and legal offices" to make a recommendation to the Secretary in every "case where allegations relating to torture are made or the issue is otherwise brought to the Department's attention," and set forth the Secretary's options upon review of that recommendation. *See* 22 C.F.R. §§ 95.1-95.4. The regulations expressly state that "[d]ecisions of the Secretary concerning surrender of fugitives for extradition are matters of executive discretion not subject to judicial review." *Id.* § 95.4. The regulations also make clear that the provisions in the FARR Act providing for judicial review in the context of immigration removal proceedings are "not applicable to extradition proceedings." *Id.* The regulations thus explicitly reject the notion that the CAT, the FARR Act or the regulations themselves confer judicially enforceable rights in extradition proceedings or otherwise subject the Secretary of State's extradition decisions to judicial scrutiny.

The REAL ID Act of 2005 eliminates any doubt that Congress intended to exclude all claims raised under the CAT from habeas review. *See Omar*, 646 F.3d at 18 ("only immigration transferees have a right to judicial review of conditions in the receiving country, during a court's

review of a final order of removal."). Congress addressed judicial review of claims under the CAT when it enacted 8 U.S.C. § 1252(a)(4) as part of the REAL ID Act of 2005, Pub. L. No. 109-13, § 106(a)(1)(B), 119 Stat. 231, 310 (the "REAL ID Act"), providing:

> Notwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of Title 28 . . . , or any other habeas corpus provision, and sections 1361 and 1651 of such title . . . , *a petition for review filed with an appropriate court of appeals in accordance with this section shall be the sole and exclusive means for judicial review of any cause or claim under the United Nations Convention Against Torture and Other Forms of Cruel, Inhuman, or Degrading Treatment or Punishment,* except as provided in subsection (e) [dealing with expedited removal].

8 U.S.C. § 1252(a)(4) (emphasis added). This provision thus constitutes "a clear statement of congressional intent to bar all habeas jurisdiction over CAT claims, with narrowly delineated exceptions not relevant here."[5] *Kapoor*, 132 F.4th at 608.

The REAL ID Act underscored what the FARR Act already established: judicial review of a claim under the CAT is limited to regional courts of appeals' review of final orders of removal in immigration cases. 8 U.S.C. § 1252(a)(4); *see also Kapoor*, 132 F.4th at 608 ("The [REAL ID Act] makes clear that a petition for review of a final order of removal is the 'sole and exclusive means for judicial review' for 'any' CAT claim. . . . This broad language encompasses CAT claims like Kapoor's made in the extradition context and therefore bars habeas review of those claims."); *Kiyemba v. Obama*, 561 F.3d 509, 514-15 (D.C. Cir 2009) (under REAL ID Act, "Congress limited judicial review under the [CAT] to claims raised in a challenge to a final order of removal."). Thus, the REAL ID Act also plainly bars habeas review of the torture claim Petitioner raises here.

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[5]A "final order of removal" is a final order concluding that an alien is removable or that orders removal from the United States. *Nasrallah v. Barr*, 590 U.S. 573, 579 (2020) (citing 8 U.S.C. § 1101(a)(47)(A)). This case is an extradition proceeding, not an immigration removal proceeding.

D. THE SUSPENSION CLAUSE DOES NOT REQUIRE THE COURT TO REVIEW A CAT CLAIM IN EXTRADITION CASES.

Petitioner's argument pertaining to the Suspension Clause (ECF 7 at 22-23) is similarly misplaced. The Suspension Clause provides that "[t]he Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it." U.S. Const. art. I, § 9, cl. 2. At a minimum, the Clause "protects the writ as it existed when the Constitution was drafted and ratified." *Boumediene v. Bush*, 553 U.S. 723, 746 (2008). The Supreme Court has not yet decided whether the Suspension Clause protects only the right of habeas corpus as it existed in 1789, or whether its protections have grown with the expansion of the writ. *Id.* (Petitioner cites no supporting authority in this regard.) Under either view, the Clause does not require review of Petitioner's CAT claim. The habeas corpus right that existed in 1789 cannot plausibly be extended to the Secretary's surrender decision in present-day extradition proceedings.

"At its historical core, the writ of habeas corpus has served as a means of reviewing the legality of Executive detention . . . ." *INS v. St. Cyr*, 533 U.S. 289, 301 (2001). The historical writ covered "detentions based on errors of law, including the erroneous application or interpretation of statutes." *Id.* at 302. But courts have traditionally "recognized a distinction between eligibility for discretionary relief, on the one hand, and the favorable exercise of discretion, on the other hand." *Id.* at 307. The Secretary's surrender decision has historically fallen into the latter category, which is "not a matter of right" that can be judicially-enforced through habeas. *Id.* at 308 (quoting *Jay v. Boyd*, 351 U.S. 345, 353-354 (1956)). The Secretary's decision is thus not subject to habeas review under the writ as it existed when the Constitution was ratified. Nor has the Supreme Court expanded habeas review of extradition decisions in the years since. Rather, as discussed, the

Supreme Court has consistently held that the treatment a fugitive might receive in the requesting country is not a proper basis for habeas relief to prevent extradition. *See, e.g.*, *Omar*, 646 F.3d at 23 n.10 (*citing Munaf*, 553 U.S. at 700-03) (noting that the Supreme Court "examined the relevant history and held that . . . a right to judicial review of conditions in the receiving country before [the petitioner] is transferred[ ]is not encompassed by the Constitution's guarantee of habeas corpus"); *Munaf*, 553 U.S. at 700 ("Habeas corpus has been held not to be a valid means of inquiry into the treatment the [fugitive] is anticipated to receive in the requesting state.") (internal quotations and citation omitted)[6]; *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103 (2020), 112, 117-20 (finding that a statute that eliminated jurisdiction over habeas petition did not violate the Suspension Clause because the petitioner sought relief that fell outside the historical scope of the writ of habeas corpus); *Neely v. Henkel*, 180 U.S. 109, 123 (1901).

Because Petitioner had a full and fair opportunity to litigate the issues that fall within the limited role of the habeas court—*i.e.*, whether the magistrate judge "had jurisdiction, whether the offense charged is within the treaty and, by a somewhat liberal extension, whether there was any evidence warranting the finding that there was reasonable ground to believe the accused guilty," *Fernandez*, 268 U.S. at 312—the writ was not suspended. *Cf. Ye Gon v. Dyer*, 651 F. App'x 249, 252 (4th Cir. 2016) (per curiam) (unpublished) (rejecting extradition petitioner's Suspension Clause argument and noting that he "has clearly had the full benefit of habeas review of the extradition request under [the *Fernandez*] standard.") (internal quotation marks omitted).

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[6] *Munaf* noted that it did not have before it "a more extreme case in which the Executive has determined that a detainee is likely to be tortured but decides to transfer him anyway." 553 U.S. at 702. Nor is that "extreme case" presented here. The United States recognizes its obligation under the Convention not to surrender a fugitive who is more likely than not to be tortured in the receiving state. And the State Department letter in this case expressly represented that "the United States has an obligation not to extradite a person to a country 'where there are substantial grounds for believing that he would be in danger of being subjected to torture,'" and that "this obligation involves consideration of 'whether a person facing extradition from the U.S. 'is more likely than not' to be tortured in the State requesting extradition.'" Ex. 1. Petitioner's citation (ECF 7 at 31-32) to Justice Souter's concurrence in *Munaf* does not change the analysis.

The Second Circuit's *Kapoor* decision addresses a situation factually-similar to the one at hand. Kapoor was certified to be extradited to India on criminal charges. *Kapoor,* 132 F. 4th at 603. She submitted multiple rounds of documents to the State Department to support her claim that she would face torture in the Indian justice system. *Id.* at 603-04. The State Department subsequently issued a letter explicitly noting its review of the material and finding, as here, that extradition would not violate applicable, torture-related federal law. *Id.* at 604-05. Kapoor then filed a habeas petition claiming that extradition would violate the Suspension Clause, based in part on her claim that the State Department had failed to meaningfully consider her torture claim. *Id.* at 610.

The Second Circuit affirmed the district court's denial of Kapoor's petition. In doing so, it relied on the rule of non-inquiry and the Supreme Court's *Munaf* decision. *Id.* at 610-13. The Second Circuit noted that Kapoor's claim that the State Department's failed to adequately consider her torture claim "would require our court to review the evidence available to the Department when it made its extradition determination." *Id.* at 613. Such review would "effectively ask . . . [the] Court to review the conditions of the country requesting her extradition and determine how she is likely to be treated if returned—the precise type of question barred by the rule of non-inquiry . . ." *Id.*

E. THE OUT-OF-CIRCUIT CASES PETITIONER CITES DO NOT SUPPORT HIS CLAIM.

1. *TRINIDAD* IS FACTUALLY-DISTINCT BECAUSE THE STATE DEPARTMENT HAS CONFIRMED ITS COMPLIANCE WITH THE CAT. *TRINIDAD*, MOREOVER, REAFFIRMED THE RULE OF NON-INQUIRY.

Petitioner cites the Ninth Circuit's decision in *Trinidad y Garcia v. Thomas,* 683 F.3d 952 (9th Cir. 2012) (en banc), *cert. denied*, 133 S. Ct. 845 (2013), for the proposition that the District

Court has jurisdiction to entertain a torture claim in an extradition case. (ECF 7 at 24-25.) Not so. *Trinidad*, in fact, held that courts may *not* second-guess the Secretary of State's substantive decision to surrender a fugitive, even when a torture claim is made. *Trinidad*, 683 F.3d at 957 (relying on the rule of non-inquiry and the Supreme Court's decision in *Munaf* in concluding that the substance of the Secretary's final extradition decision is not reviewable).

Although the Ninth Circuit in *Trinidad* identified a "narrow liberty interest" under the Due Process Clause that could support a district court's habeas inquiry into whether the Secretary had complied with its regulations implementing the FARR Act, the Ninth Circuit made clear that such an interest was "fully vindicated" by the Secretary's filing of a declaration confirming that its decision complied with Article 3 of the CAT. *Id.* (noting that, if the State Department provides such confirmation, "the court's inquiry shall . . . end"); *see also Sridej*, 108 F.4th at 1093 (discussing *Trinidad* and holding that "a declarant with knowledge that the Secretary or his designee has made the determination required by the CAT need only verify that the Secretary 'has complied with her obligations'"). The opinion thus "held that a district court may do no more than confirm that the Secretary of State had actually considered the extraditee's CAT claim and found that it was not 'more likely than not' that the extradite will face torture if executed." *Kapoor*, 132 F. 4th at 610.

Trinidad's narrow holding thus focused almost exclusively on whether a record existed to show that the State Department complied with applicable extradition procedures, something *not* at issue here because the State Department has, in fact, provided such a record. The State Department's July 14, 2025 letter explicitly confirmed "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." Ex. 1. Aware that the State Department's letter definitively

resolves this issue—thereby eliminating any persuasive force *Trinidad* could offer—Petitioner attempts to "move the goalposts" by arguing that the letter provides too little information, thereby elevating the Government's burden. ECF 7 at 28-29. But that is not what *Trinidad* requires. *Trinidad*, 683 F.3d at 957 (if the State Department provides confirmation that its decision complied with the CAT, "the court's inquiry shall . . . end"); *Sridej*, 108 F.4th at 1093 (under *Trinidad*, "a declarant with knowledge that the Secretary or his designee has made the determination required by the CAT need only verify that the Secretary 'has complied with her obligations'").

Petitioner, moreover, fails to provide binding authority under which the Court could find the letter insufficient, nor does he fill that void by articulating any specific standard defining what level of detail would sufficient. The Court is thus left to wonder how much detail would be enough to satisfy Petitioner in this regard. Given the looming February 7, 2026 termination of the Extradition Treaty, Petitioner would likely have the Court order the State Department to provide the most expansive possible rationale of his surrender decision and request serial revisions, using that process to extend this litigation past the Treaty's termination.

Trinidad represents the outermost bounds to which a circuit court has ever exercised jurisdiction in the extradition habeas context to address a fugitive's CAT claim. Even so, the court reaffirmed the rule of non-inquiry, holding that "[t]he doctrine of separation of powers and the rule of non-inquiry block any inquiry into the substance of the Secretary's declaration." *Id.* at 957 (citations omitted). Not surprisingly, the Petition fails to reference this holding.

2. *VENCKIENE* REAFFIRMED THAT A FUGITIVE'S HUMANITARIAN CLAIMS SHOULD BE ADDRESSED BY THE SECRETARY OF STATE, NOT THE COURT.

Petitioner mistakenly cites the Seventh Circuit's decision in *Venckiene v. United States*, 929 F.3d 843 (7th Cir. 2019), for the proposition that the District Court has jurisdiction to consider a habeas challenge to the Secretary's decision to extradite a fugitive. ECF 7 at 25-26. In *Venckiene*, the fugitive, like Petitioner, sought habeas relief and a stay of extradition based in part on allegedly poor conditions in Lithuania's prisons. *Venckiene*, 929 F.3d at 862. The Seventh Circuit found that there was no irreparable harm warranting a stay, despite the fugitive's claims that her physical safety would be threatened if extradited, because "these important humanitarian considerations are left to the executive branch." *Id.* at 864-65. The court reasoned that "it is for the political branches, not the judiciary, to assess practices in foreign countries and to determine national policy in light of those assessments." *Id.* at 860 (quoting *Munaf*, 553 U.S. at 700-01) (internal quotation marks omitted)); *see also id.* at 849 ("The executive branch has sole authority to consider issues like the political motivations of a requesting country and whether humanitarian concerns justify denying a request.") (citing *Noeller v. Wojdylo*, 922 F.3d 797, 808 (7th Cir. 2019)). The Seventh Circuit further discussed the Supreme Court's decision in *Munaf*, noting that, "[a]lthough *Munaf* did not deal with extradition directly, it certainly offers guidance to courts in carrying out their limited role in the extradition context, teaching that the judiciary should refrain from encroaching upon the executive's political and humanitarian decisions regarding foreign justice systems." *Id.* at 861; *see also Munaf*, 553 U.S. at 700 ("Habeas corpus has been held not to be a valid means of inquiry into the treatment the [fugitive] is anticipated to receive in the requesting state.") (internal quotations and citation omitted).

As Petitioner acknowledges, the *Venckiene* court concluded that "the circumstances in which federal courts could and should overturn the highly discretionary decision of the Secretary of State *should be rare* . . ." *Id.* at 861 (emphasis added); ECF 7 at 26. The only examples of such circumstances the Seventh Circuit identified were cases in which the Secretary based extradition decisions on "blatantly . . . impermissible characteristics like race, gender, or religion." *Id.* Petitioner raises no such claims here, and no court has ever overturned the Secretary's discretionary decision to order extradition on these grounds. Petitioner's reliance on *Venckiene* fails.

F. THE NON-BINDING *MUNAF* CONCURRENCE ACKNOWLEDGES THAT THE LIKELIHOOD THAT A FUGIVITVE WILL BE TORTURED IS A MATTER FOR THE EXECUTIVE BRANCH.

Petitioner cites the non-binding concurrence in *Munaf* in support of his Due Process claim. (ECF 7 at 330-33.) This case is, moreover, factually-distinct from the circumstance the concurrence says would suffice to allow district courts to grant habeas relief to fugitives who claim a risk of torture.

In *Munaf*, Justice Souter focused on the hypothetical "extreme case" in which the Executive extradited a fugitive despite finding that the fugitive is likely to be tortured. *Munaf*, 553 U.S. at 706-707. Here, the State Department has made the exact *opposite* finding—and did so after evaluating the materials Petitioner submitted in this regard in light of applicable law. This finding is entitled to deference because, as Souter wrote, "any likelihood of extreme mistreatment at the receiving government's hands is a proper matter for the political branches to consider . . ." *Id.* at 706. Similarly, the majority opinion properly stated that the "Judiciary is not suited to second-guess such determinations—determinations that would require federal courts to pass judgment on foreign justice systems and undermine the Government's ability to speak with one voice" in

foreign policy. *Id.* at 702. To the extent Justice Souter would extend such relief to cases in which the possibility of torture is "well-documented"—a term open to expansive, time-consuming interpretation—that approach would upend the rule of non-inquiry and give federal courts an inappropriately-intrusive role in matters of foreign policy. *Kapoor*, 132 F. 4th at 613 ("Kapoor effectively asks this Court to review the conditions of the country requesting her extradition and determine how she is likely to be treated if returned—the precise type of question barred by the rule of non-inquiry"). This Court should definitively decline Petitioner's invitation to create such elastic and otherwise expansive new law.

V. MOTION FOR EXPEDITED DECISION.

The fast-approaching termination of the Extradition Treaty on February 7, 2026 means that time is of the essence, especially because Petitioner's counsel at the July 24, 2025 status conference stated his intention to appeal any adverse decision all the way to the Supreme Court. The looming termination date creates perverse incentives for Petitioner to extend this litigation in every way possible so that he can win his freedom by "running out the clock," rather than through legally-meritorious means.[7] The Government thus moves for an expedited decision, and submits that oral argument is unnecessary for the Court to render judgment.

VI. CONCLUSION.

For the foregoing reasons, the Court should deny Martinez Guardado's Petition for a writ of habeas corpus on an expedited basis.

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[7]Petitioner's expansive request that the Court "[o]rder 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" (emphasis added) appears designed for this exact purpose. (ECF 7 at 33.)

Respectfully Submitted,

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

MELVIN MARTINEZ GUARDADO,	§	
	§	
Petitioner,	§	
	§	
v.	§	**Civil Action No. 4:25-CV-3305**
	§	
HRIOMICHI KOBAYASHI et al,	§	
	§	
Respondents.	§	

ORDER ON GOVERNMENT'S MOTION FOR EXPEDITED DECISION

This matter having come before the Court, the Court ORDERS as follows:

1. The Court GRANTS the Government's motion for expedited decision. This matter shall be adjudicated on an expedited basis.

2. The Court shall rule on this matter without oral argument.

3. The Court shall rule on the pending habeas petition (ECF 7) no later than _____.

So ordered this ____ day of _____, 2025.

_____
Honorable Ewing Werlein, Jr.
Senior United States District Judge

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

MELVIN MARTINEZ GUARDADO,	§	
	§	
Petitioner,	§	
	§	
v.	§	**Civil Action No. 4:25-CV-3305**
	§	
HRIOMICHI KOBAYASHI et al,	§	
	§	
Respondents.	§	
	§	
	§	

ORDER ON PETITION FOR WRIT OF HABEAS CORPUS

This matter having come before the Court, the Court hereby DISMISSES the pending Petition for Writ of Habeas Corpus (ECF 7).

So ordered this ____ day of _____, 2025.

_____
Honorable Ewing Werlein, Jr.
Senior United States District Judge

CERTIFICATE OF SERVICE

I certify that the attached Response and Motion was filed with the CM/ECF system on July 29, 2025, which will forward a copy to counsel for Petitioner Melvin Martinez Guardado.

s/ *John S. Ganz*
Assistant United States Attorney
Southern District of Texas