Maria E. Quiroga, NV State Attorney ID #13939
Samantha M. Meron, NV State Attorney ID #15782
QUIROGA LAW OFFICE, PLLC
7935 W. Sahara Ave, Ste #103
Las Vegas NV 89117
Tel: (702) 972-8348
maria@quirogalawoffice.com
samatha@quirogalawoffice.com
Attorneys for Petitioner

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

HUGO GIL CANDIDO-BOLANOS, Petitioner, v. JOHN MATTOS, TODD M. LYONS and KRISTI NOEM, Defendants.	Case No. 2:25-cv-1359-RFB-EJY **Petitioner's Reply to Defendant's Response to Petition for Writ of Habeas Corpus, and Motion to Dismiss or Stay**

I. INTRODUCTION

The Petitioner, Hugo Candido Bolanos, through counsel Maria E. Quiroga and Samantha M. Merson, hereby files this reply to the Defendants' Response to Petition for Writ of Habeas Corpus and Motion to Dismiss or Stay. ECF No. 12.

Hugo Candido Bolanos ("Petitioner") is a native and citizen of El Salvador. E.C. F. No. 1, at ¶ 1, 29. On February 8, 2008, an Immigration Judge (IJ) ordered Petitioner "be removed to El Salvador with an alternate order granting Deferral of Removal pursuant to the Convention Against Torture (CAT) as ordered by the BIA on August 23, 2007." E.C.F. 12-4, Exh. B (hereafter, "IJ Order"). In accordance with the IJ Order, Petitioner was released from Immigration Customs and Enforcement (ICE) custody on April 22, 2008.

Seventeen (17) years later, on July 22, 2025, Petitioner was detained and served with improper notice of revocation. *Id.,* Exh. D. Upon realizing Petitioner had counsel, Defendants corrected the notice of revocation. *Id.,* Exh. E.

On September 15, 2015, almost ten (10) years before the instant detention of Petitioner, he was released from prison following a conviction for violating 18 U.S.C. § 1962(d). *Id.,* Exh. C. Although this conviction is mentioned in the revocation notices, there is no evidence of a nexus between the conviction and the revocation of Petitioner's order of supervision on July 22, 2025. It is undisputed that Petitioner pled guilty to the RICO charge which arose from events dating back to 2004. ECF No. 1, ¶ 32. It is undisputed the 2004 conduct was already known to the immigration court during his CAT proceedings. *Id.* Thus, there is no evidence that Petitioner's conviction created a "changed circumstance" justifying his apprehension, detention and revocation of his order of supervision.

In the present case the Defendants conflate their discretion to revoke an order of supervision with termination of the deferment from removal – an act that can only be performed by an IJ. The Defendants have not reopened the Immigration Court proceedings to seek termination of Petitioner's deferment from removal.

The Petitioner's ongoing detention is unlawful and in violation of due process. The Defendants cherry-picked from various statutes, regulations and case law to justify Petitioner's detention, but have not complied with regulations at 8 C.F.R. § 1208.17 which govern the procedures for terminating deferral of removal under the CAT, nor have Defendants identified a third country where it is not likely the Petitioner will be tortured.

For the foregoing reasons, Petitioner requests an order for his immediate release from detention.

II. ARGUMENT

A. PETITIONER'S DETENTION IS UNLAWFUL

The Defendants attempt to explain their obstreperous conduct away with the premise that there is an order of removal they may enforce without notice and the opportunity to be heard and without seeking termination of the deferral from the Immigration Court. Under the Defendants' theory of unlimited discretion, the alternate order granting deferral of removal under CAT was jettisoned upon their revocation of the supervision order depriving Petitioner of any notice or opportunity to be heard before incarceration. Consequently, Defendants would have this Court believe that they have complied with due process – so long as the Court does not check under the rug for the active order deferring removal.

It is true regulations grant ICE the discretion to revoke an order of supervision. 8 C.F.R. § 241.4. Events that may trigger revocation of release are a violation of the terms and conditions of the supervision order, when the purpose of the release has been served, when it is appropriate to enforce the removal order or other circumstances indicate continued release from detention is not appropriate. *Id.* Moreover, Defendants may revoke the order if there is a significant likelihood of removal in the reasonably foreseeable future due to changed circumstances. 8 C.F.R. § 241.13(i).

Additionally, Defendants must conduct an informal interview to evaluate the reasons for the revocation and evidence provided by the noncitizen. *Id.* Such an interview has not occurred in the present case. Although the Defendants' gesture towards the Petitioner's conviction under 18 U.S.C. § 1962(d), it is undisputed that Petitioner pled guilty to the RICO charge which arose from events dating back to 2004. ECF No. 1, ¶ 32. It is undisputed the 2004 conduct was already known to the immigration court during his CAT proceedings. *Id.*, ¶ 32.

In any event, revoking an order of supervision does not equate to terminating an order granting deferral of removal under CAT.

1. The 8 U.S.C. § 1231 "Removal Period" is Irrelevant

The Petitioner was granted an order deferring his removal under CAT. However, in the present case, the Defendants furtively avoid addressing the due process requirements for terminating an order granting deferral of removal under CAT but instead preoccupy this Court's time on the underlying removal order.[1]

Defendants' disingenuous position is that Petitioner's "removal period" began when they detained him on July 22, 2025, thereby granting them the full powers afforded them under 8 U.S.C. § 1231. After all, under Defendants' strained logic Petitioner has only been imprisoned for nineteen days, and his request for release from detention is "premature". On the contrary, each day Petitioner is detained is unlawful.

First, the removal period for detention under 8 U.S.C. § 1231 is triggered on the latest of three specific dates: (1) the date the administrative order becomes administratively final; (2) if the removal order is judicially reviewed, and the court orders a stay of removal, the date of the court's final order; or (3) if the noncitizen is detained or confined (except under an immigration process), the date the noncitizen is released from detention or confinement. *See Padilla-Ramirez v. Bible*, 882 F.3d 826 (9th Cir. 2017).

Here, the IJ order became final on 02/04/2008 after the Board of Immigration Appeals ordered deferral of removal which was upheld by the IJ. Thus, under that triggering event, the

[1] To date, the Defendants have not provided evidence that Petitioner *can* be removed to another country other than El Salvador *where he is not likely to be tortured*. Instead, the position of Defendants is that Petitioner can be warehoused in a detention cell until they decide the next steps.

removal period set forth in 8 U.S.C. § 1231 expired May 4, 2008. Petitioner was released from custody on April 22, 2008. ECF No. 1 at ¶ 32.

Another triggering event for the "removal period" is the date the noncitizen is released from confinement (except under an immigration process). *Padilla-Ramirez,* 882 F.3d 826. Petitioner was released from Bureau of Prison custody on September 15, 2015, following his conviction for violating 18 U.S.C. § 1962(d). ECF No. 12. The removal period under this triggering event expired December 14, 2015.

The final triggering event for the "removal period" occurs after the removal order is judicially reviewed. Defendants did not pursue review of the removal order with the alternate deferment of removal under CAT following the 02/04/2008 IJ Order.

The Defendants cite *Johnson v. Arteaga-Martinez*, 596 U.S. 573, 574 (2022) for the principle that ICE has statutory authority to detain Petitioner to effectuate his removal order, and he is not entitled to release (or bond) under 8 U.S.C. § 1231(a)(6). *Arteaga-Martinez* is clearly distinguishable.

To set up their argument, the Defendants' falsely claim Petitioner is unlawfully in the U.S. ECF No. 12, p. 4. Petitioner is lawfully in the U.S. pursuant to a grant of deferment from removal on 02/04/2008.

The posture of the noncitizen in *Arteaga-Martinez* is markedly different than the Petitioner. In *Arteaga-Martinez,* the noncitizen unlawfully reentered the United States months after being removed, he was thus detained under 8 USC § 1231(a) and referred for withholding-only proceedings after he demonstrated credible fear. *Arteaga-Martinez*, 596 U.S. 573. Unlike the Petitioner in the present case, the noncitizen's posture was an applicant for withholding-only

seeking prehearing release from detention, and comfortably within the parameters of 8 U.S.C. § 1231(a)(6).

Likewise, the Defendants' reliance on *Zadvydas v. Davis*, 533 U.S. 678 (2001) is another misdirection. Indeed, the opinion begins with the statement "We deal here with aliens who were admitted to the United States but subsequently ordered removed. Aliens who have not yet gained initial admission to this country would present a very different question." *Zadvydas,* 533 U.S. at 682 The noncitizen in *Zadvydas* was a resident who was ordered removed and detained based on his extensive criminal history and history of flight from immigration and criminal proceedings. *Id.*, at 684. After being ordered removed, the U.S. could not find a country willing to accept him. *Id.* A second noncitizen, "Ma" was ordered removed following his conviction for an aggravated felony. *Id.* at 685. Ma was ordered removed, but there was no realistic chance Cambodia would accept him. *Id.*

Thus, both noncitizens in *Zadvydas* were subject to orders of removal which were not deferred, but the United States was unable to effectuate their removal. Thus, the six-month threshold developed by *Zadvydas* does not apply here because the Petitioner should not be detained in the first place.

Defendants' reliance on 8 U.S.C. § 1231(6) is misplaced and Petitioner should be immediately released from detention.

2. <u>Due Process Requires Petitioner's Immediate Release</u>

Petitioner's removal from the United States to any country is deferred unless and until a reviewing Court says otherwise. Petitioner is legally present in the United States until a reviewing Court says otherwise. Defendants have not moved to reopen the 02/08/2008 removal order and the deferral of removal is in full force and effect. Instead, Defendants try to convince this Court that

the revocation of the supervision order is a magic wand which charmed Petitioner's status from a noncitizen present legally under a deferment of removal into being a noncitizen illegally present in the United States.

The Government must follow specific procedures to terminate an order deferring removal under CAT. The procedures are governed by federal regulations and case law which outline the grounds for termination, the evidentiary requirements and the process for conducting termination hearings. In the present case, Defendants made no effort to comply with the mandated procedures, nor do they explain their failure to do so.

To begin, Petitioner acknowledges deferral of removal is not permanent and may be terminated under certain circumstances. If there is new evidence or changed conditions in the country of removal, the ICE District Counsel may file a motion with immigration court to schedule a hearing to consider whether deferral should be terminated. 8 C.F.R. § 1208.17(d) In this instance, the ICE District Counsel is not constrained by the time and quantity requirements for reopening.

Defendants have not filed a motion with the immigration court to request termination of Petitioner's removal order.

Next, the immigration court shall provide notice to the noncitizen and ICE of the time, place and date of the termination hearing, and the noncitizen is afforded time to provide evidence. 8 C.F.R. § 1208.17(d)(2).

Here, the Petitioner is shut out of the due process set out in the federal regulations because for reasons not explained, the Defendants are reluctant to bring this matter before the proper forum, *i.e.,* the immigration court who issued the administrative order. A hearing has not been scheduled.

The Defendants incorrectly claim their authority to detain Petitioner derives from 8 U.S.C. § 1231(6). Subsection (6) of § 1231 is not a "catch-all" provision but narrowly defines who the

statute is applicable to. Here, Defendants have not alleged Petitioner is inadmissible under 8 U.S.C. § 1182, leaving specific provisions of 8 U.S.C. § 1227, *i.e.,* a noncitizen admitted as a nonimmigrant who failed to maintain status (§ 1227(a)(1)(C)); a noncitizen convicted of certain crimes (§ 1227(a)(2)); or a noncitizen who is a danger to the security of the United States (§ 1227(a)(4).

Defendants also claim authority to unlawfully detain the Petitioner under a strained, piecemeal application of 8 C.F.R. § 241. Petitioner has searched the Defendants' response for an explanation of what "circumstances" changed in his case without success. Defendants claim their regulatory basis for detaining Petitioner is 8 C.F.R. § 241.13. Clearly, this regulation applies to noncitizens with active orders of removal who are detained beyond the removal period, but there is no significant likelihood of removal to the country to which the noncitizen was ordered removed or to a third country in the reasonably foreseeable future.

Here, Petitioner is an individual with an active order deferring his removal because the immigration court found he was tortured and the Salvadoran Government was complicit, not an active order of removal standing alone. Petitioner is not a noncitizen ordered to removed to a country not accepting deportation flights from the United States. There are no claimed foreign policy complications preventing Petitioner's removal – the conundrum is caused by the Defendants' own conduct in ignoring the existence of the active deferment from removal order under CAT which has not been terminated.

3. <u>Defendants' Do Not Plan on Removal in the "Reasonably Foreseeable Future"</u>

It is undisputed that ICE has the discretion to revoke an order of supervision. In the present case, ICE wielded their power by arresting Petitioner and serving an improper notice threatening to remove him to El Salvador where he has previously been tortured. ECF No. 1, ¶ 2. Upon being notified that Petitioner had counsel to advocate for him, ICE "corrected" the erroneous notice and

ceased attempts to remove Petitioner to El Salvador. ECF No. 12, p. 2. Now Defendants proudly tell the Court that Petitioner will "promptly be afforded an interview" but said "prompt" interview will be held at some unknown time "within approximately three months." *Id.*

There is no stated reason for Petitioner's detention other than ICE believes it has the power to imprison him for an indefinite period while hinting at removal in the reasonably foreseeable future to skirt around due process.

It is undisputed that Petitioner attended annual check ins in compliance with his order of supervision from 2017 to 2024 without incident. ECF No. 1, ¶ 33.

It is undisputed that Petitioner pled guilty to the RICO charge which arose from events dating back to 2004. *Id.*, ¶ 32. It is undisputed the 2004 conduct was already known to the immigration court during his CAT proceedings. *Id.*, ¶ 32.

It is undisputed, Petitioner has had no further contact with the criminal justice system since his release in 2015. *Id.*

The foregoing facts all lead to the uncomfortable conclusion that Petitioner was arrested and detained, not to protect the public, but to meet the quotas imposed by the administration.[2] There is no evidence Petitioner violated any laws following his release from custody in 2015. There is no evidence Petitioner failed to comply with his order of supervision.

There is also no evidence ICE had a plan in place for Petitioners' removal to a third country, particularly in view of the initial attempt to remove Petitioner to El Salvador. Indeed, as this Court has already ordered, if Defendants identify a third country, they must provide Petitioner with the opportunity to challenge his removal. ECF No. 11. There is no reason to warehouse Petitioner in

[2] https://www.foxnews.com/politics/trump-officials-give-ice-goal-number-arrests-per-day-report?msockid=1574fde17e8468ba07ede9927f5b6924

ICE custody, especially since Defendants have made no move towards terminating his order deferring his removal under CAT.

III. CONCLUSION

The Defendants have not notified Petitioner or his counsel of another country of removal where Petitioner is not likely to be tortured. Initially, Defendants attempted to remove Petitioner to El Salvador by detaining him on 07/25/2025 and serving a "Notice of Revocation of OSUP Release". E.C.F. No. 12-4, Exh. D. The notice served on Petitioner inaccurately alleges his "stay of removal request" (which did not exist) had been denied.

Upon realizing Petitioner had counsel to advocate for him, Defendants applied a band aid and re-issued another "Notice of Revocation of Release", this time dropping the "USOP" designation. Although the Notice refers to Petitioners' conviction under 18 U.S.C. § 1962(d), there is no other basis listed to support a change of circumstances justifying Petitioner's apprehension and detention. It is undisputed that Petitioner pled guilty to the RICO charge which arose from events dating back to 2004. ECF No. 1, ¶ 32. It is undisputed the 2004 conduct was already known to the immigration court during his CAT proceedings. *Id.*, ¶ 32.

There is no evidence of a significant likelihood Petitioner will be removed in the reasonably foreseeable future, nor do they allege any factual predicate to the claim of changed circumstances. The "removal period" defined by case law and 8 U.S.C. § 1231 is irrelevant to this Petitioner as all triggering events for the removal period have expired. The Defendants have not reopened Petitioner's immigration court case to request termination, even though the regulations excuse Defendants from the typical time and numerical limitations for reopening.

Although the Defendants have discretion to revoke an order of supervision, they do not have discretion to terminate an order deferring removal. The regulations provide due process and set out

the procedures for requesting termination with the immigration court – the process which the Defendants are inexplicably avoiding.

Therefore, Petitioner opposes dismissing the petition for writ of habeas corpus and requests the following orders:

1. An order directing Defendants forthwith release Petitioner from custody and to re-issue an Order of Supervision on the same or substantially similar terms that were in effect until July 25, 2025, until such time as the Immigration Judge or this Court orders otherwise;

2. An order directing Defendants to provide Petitioner notice and opportunity to challenge his removal to a third country if the Defendants identify a third country of removal in the future; and

3. An order retaining jurisdiction to monitor and enforce compliance with the foregoing order.

4. Such other and further legal or equitable relief as the Court deems proper.

Respectfully submitted this 21st day of August 2025.

QUIROGA LAW OFFICE, PLLC

By:/s/ *Maria E. Quiroga*
Maria E. Quiroga
Nevada State Attorney ID #13939

By:/s/ *Samantha M. Meron*
Samantha M. Meron
Nevada State Attorney ID #15782

Attorneys for Petitioner