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UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

Portland Division

L-J-P-L-, an adult,

Petitioner,

v.

CAMMILLA WAMSLEY, *et al.*,

Respondents.

Case No. 25-cv-01390-IM

Agency No. AXXX-XXX-629

PETITIONER'S MOTION TO RECONSIDER

EXPEDITED CONSIDERATION REQUESTED

LR 7-1 CERTIFICATION

Pursuant to Local Rule 7-1 and in compliance with Federal Rule of Civil Procedure 37(a)(1), Petitioner's counsel certify that they made a good faith effort to confer with Respondents' counsel through telephone conference and Respondents' counsel declined to do so. Given the time-sensitive nature of Petitioner's case, including his recent aborted removal to Guatemala, his still-pending immigration court proceedings, and his current detention at Camp East Montana at Fort Bliss, Petitioner informed Respondents that they would proceed with filing this motion and requesting expedited consideration.[1]

I. INTRODUCTION

Petitioner is an applicant for protection in the United States who sought *habeas corpus* relief from this Court after he was arrested by government Defendants in violation of his statutory and Due Process rights. The Court denied Petitioner's petition on the basis that, because Defendants decided to reinstate Petitioner's prior order of removal, the Court had "no choice but to conclude that, under existing immigration laws, Petitioner's detention is lawful." Opinion and Order Denying Petition for Writ of Habeas Corpus ("Order"), ECF 38.

Petitioner now moves the Court to reconsider its decision. The chain of events that has followed this Court's decision on August 22, 2025, shows that the Court erred in accepting

[1] When reached by telephone and asked to confer, Respondents' counsel Susanne Luse directed Petitioner's counsel to confer with Respondents' counsel Ariana Garousi, with whom Petitioner had left a voicemail. Ms. Garousi and Ms. Feldman then reached out to Petitioner by e-mail, asking for the basis of the motion and stating their availability to confer after 2:30pm PT. Petitioner's counsel responded by e-mail, outlining the basis of Petitioner's motion and asking for a conversation to receive Respondents' position on the motion within the hour. Petitioner's counsel outlined the facts of why the filing of the motion is time-sensitive. As of this filing, Petitioner's counsel have not received a further response from Respondents' counsel.

Respondents' assertions that they were able to reinstate Petitioner's removal order while his 8 U.S.C. § 1229a proceedings remain pending and thus proceed against him in dual, concurrent proceedings. Respondents told this Court that reinstatement of Petitioner's removal order could occur irrespective of his pending immigration court proceedings – but their actions since the Order illustrate that this argument was at best without merit, and possibly in bad faith.

The facts are as follows: On September 2, 2025, the immigration court rejected the government's motion to dismiss Petitioner's immigration proceedings that are pending under 8 U.S.C. § 1229a, meaning that Petitioner's court proceedings remain open and ongoing – jurisdiction continues to vest solely and exclusively with the immigration court, and removal may *not* occur. After scheduling a reasonable fear interview for Petitioner per the Court's Order, at which Petitioner was denied access to counsel and declined to move forward with his interview, Respondents proceeded to arrange his transfer to another facility and his removal to Guatemala. However, after flying him to Guatemala, Respondent ICE immediately returned Petitioner to the United States. Officers told Petitioner that "the attorneys" said there had been a mistake, so Petitioner would return to Texas for further proceedings. This decision can only be understood as a recognition of their inability to lawfully reinstate Petitioner's removal order while his immigration court proceedings remained open. As a result, Petitioner is currently detained in the United States in Fort Bliss Camp East Montana, a massive tent encampment in Texas that has violated at least 60 federal standards for immigrant detention and where Petitioner lacks adequate medical attention and has had limited communication with both counsel and family members.[2]

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[2] Douglas MacMillan, Samuel Oakford, N. Kirkpatrick, & Aaron Schaffer, "60 violations in 50 days: Inside ICE's giant tent facility at Ft. Bliss", *The Washington Post* (Sept. 16, 2025), available at https://www.washingtonpost.com/business/2025/09/16/ice-detention-center-immigration-violations/.

Because Respondents' own actions demonstrate why reinstatement of Petitioner's removal order cannot and should not occur while his immigration court proceedings remain pending, Petitioner respectfully requests that this Court reconsider its Order. Petitioner further requests that the Court reconsider its Order because, in concluding that Respondents met the requirements of 8 C.F.R. § 241.8, the Court did not consider the fact that Respondents never gave Petitioner notice or an opportunity to respond in the language that he speaks and understands: Mam. Finally, the Court erred in concluding that detention under 8 U.S.C. § 1231(a)(2) was mandatory, as explained at greater length by Judge Aiken in an opinion from this Court on August 21, 2025.

Given the nature of Petitioner's current detention conditions and his need for medical attention, Petitioner respectfully requests that the Court consider this motion on an expedited basis.

II. LEGAL STANDARD

This Court retains jurisdiction to reconsider and modify its August 22 Order until its entry of a final judgment in the case, pursuant to both its traditional equitable authority and the terms of Federal Rule of Civil Procedure 54(b). *See John Simmons Co. v. Grier Brothers Co.,* 258 U.S. 82, 88 (1922) (explaining that "the court at any time before final decree may modify or rescind it"); Fed. R. Civ. P. 54(b) (providing that any order "that adjudicates fewer than all the claims or the rights and liabilities of fewer than all the parties does not end the action as to any of the claims or parties and may be revised at any time before the entry of a judgment adjudicating all the claims and all the parties' rights and liabilities"). The Court's August 22 Order imposed ongoing liabilities on Respondents and has not been followed by the entry of any final judgment. *See* Order at 20 (ordering Respondents "to notify this Court of the date for which that interview is scheduled within one week of the issuance of this Order"). This Court thus retains its authority to reconsider its Order. *Marconi Wireless T. Co. of Am. v. United States*, 320 U.S. 1, 48 (1943) (explaining that until

the entry of final judgment, a district court is "free in its discretion to grant a reargument based either on all the evidence then of record or only the evidence before the court when it rendered its interlocutory decision, or to reopen the case for further evidence").[3]

III. BACKGROUND

Petitioner L-J-P-L- came to the United States from Guatemala to seek asylum because his brother was murdered in Guatemala and he feared that those who murdered his brother would murder him or harm his family. ECF 32 Ex. A. He is an indigenous speaker of Mam, not Spanish, though he has limited and rudimentary Spanish-speaking skills. ECF 30 at ¶ 2.

On or around February 14, 2024, Petitioner and his six-year-old daughter arrived in the United States to seek protection. ECF 32 Ex. A; ECF 30 at ¶¶ 5-6. After taking biometrics and conducting a comprehensive records check, Respondents agents chose to initiate immigration court proceedings against Petitioner and his daughter pursuant to 8 U.S.C. § 1229a, rather than reinstating his prior removal order under 8 U.S.C. § 1231(a)(5). ECF 32 Ex. B at 2. They then exercised their custody authority under 8 U.S.C. § 1226(a) to release Petitioner on an order of recognizance. *Id.* Subsequently, Petitioner complied with all terms of his release, reporting to ICE's Eugene Field Office five times while waiting for his initial court hearing in November 2026. ECF 32 Ex. C; ECF 23 at 2; ECF 26 at 2-3.

On August 7, 2025, Respondents' agents, who by their own admission were looking for *someone else*, arrested Petitioner in a violent traffic stop. ECF 15-3 at 3; ECF 16 ¶ 9. After

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[3] In the event that this Court deems its August 22 Order to have been a final judgment, Petitioner seeks reconsideration pursuant to Federal Rule of Civil Procedure 60(b), on the grounds of newly discovered evidence of Petitioner's aborted removal and continued detention; Respondents' misrepresentation of their legal ability to remove Petitioner on a reinstated removal order while his 8 U.S.C. § 1229a removal proceedings remain pending; and because it is in the interests of justice to justify relief.

shattering the window of the vehicle in which Petitioner was a passenger, they arrested him and *then* proceeded to interrogate him to determine if he was Mexican and illegally in the United States. ECF 31 ¶¶ 10,15. 5. L-J-P-L- filed a habeas petition that same day to challenge his unlawful detention. ECF 1.

On August 22, 2025, the Court denied Petitioner's petition. *See* Order. The Court determined that Respondents had lawfully reinstated Petitioner's removal order under the requirements of 8 C.F.R. § 241.8 because the factual requirements Petitioner of the regulation were met, Petitioner was provided with "notice of Respondents' intent to reinstate his prior order of removal," and "Petitioner was given an opportunity to contest Respondents' determination but declined." Order at 16. The Court then determined that Respondents could reinstate Petitioner's prior order although his 8 U.S.C. § 1229a removal proceedings remained pending. Order at 16. Having found that Respondents had lawfully reinstated Petitioner's prior order, the Court concluded that 8 U.S.C. § 1231(a)(2) required Respondents to detain the Petitioner, because it states that "[d]uring the removal period, the Attorney General *shall* detain the alien" (emphasis in original). Order at 18.

Finally, the Court distinguished Petitioner's case from others recently decided in the district of Oregon. Pertinent to this motion, the Court distinguished Petitioner's case from the case of O-J-M- because "[t]his case also does not involve clear misrepresentation or trickery by the government, nor have Respondents shifted their basis for detaining Petitioner". Order at 19-20.

On August 12, 2025, Respondent DHS moved the immigration court to dismiss Petitioner's removal proceedings. *See* Declaration of Kathleen Marie Lowman Pritchard In Support Of Petitioner's Motion to Reconsider ("Pritchard Decl.") ¶ 4. On September 2, 2025, the Seattle Immigration Court rejected the DHS motion because DHS failed to first move to sever Petitioner's

case from that of his minor daughter, with whom he is in consolidated removal proceedings. *Id.* ¶ 5, Ex. A. On or around September 4, 2025, an asylum officer met by telephone with L-J-P-L- for his reasonable fear interview, at which the officer denied L-J-P-L- access to his immigration counsel of record. *Id.* ¶ 11. Although Petitioner still feared deportation to Guatemala, he told the officer that he did not want to proceed with the interview because he could not bear continued detention. Declaration of Petitioner L-J-P-L- In Support Of His Motion to Reconsider ("Pet. Decl.") ¶ 5. On or around September 13, 2025, Respondents transported Petitioner first to a staging facility in Arizona and then to another processing center in Texas, where he was ultimately placed on a flight to Guatemala after spending two nights sleeping on the floor. *Id.* ¶¶ 8-10.

The deportation flight stopped in El Salvador before landing in Guatemala. *Id.* ¶ 11. During the layover in El Salvador, an immigration officer notified Petitioner that he was not getting off the plane in Guatemala because there had a been a "mistake". *Id.* The officer told Petitioner that he would be returning to Texas. *Id.* Petitioner returned to Texas where he is currently held in immigration detention at the ICE Camp East Montana at Fort Bliss. *Id.* ¶ 14. As of this filing, he remains detained in what he describes as an "ongoing nightmare" and is struggling with both his physical and emotional health. *Id.* ¶¶ 11-12, 17-19 (describing continued health issues after incident on the plane to Guatemala). His immigration court proceedings under 8 U.S.C. § 1229a remain pending; the government has not filed a new motion to dismiss the removal proceedings; and Petitioner still has a hearing scheduled in the Seattle Immigration Court on November 18, 2026. Pritchard Decl. ¶¶ 6-7.

IV. ARGUMENT

A. The INA bars dual, concurrent proceedings as demonstrated by the evolution of this case since this Court's August 22 Order.

The Court noted Petitioner's legal argument that 8 U.S.C. § 1229a(a)(3) requires that "a proceeding under this section shall be the sole and exclusive procedure for determining whether an alien may be admitted to the United States or, if the alien has been so admitted, removed from the United States." Order at 16. Concluding that Petitioner at oral argument "did not provide any case, statute, or regulation supporting that theory," the Court held that 8 U.S.C. § 1229a proceedings is not required "before the government seeks reinstatement under § 1231(a)". Order at 17.

The Court erred by discounting the plain statutory language of the 8 U.S.C. § 1229a(a)(3), which makes clear that once removal proceedings are begun, they "shall be the sole and exclusive procedure for determining" removability. As the Court points out elsewhere in its order, "[t]his Court must presume that 'Congress says what it means and means what it says,' *Simmons v. Himmelreich*, 578 U.S. 621, 627 (2016)". ECF 38 at 18. To be sure, as Petitioner has conceded, Respondents *could have* reinstated his removal order when he last entered the United States, which would have triggered the procedures under the 8 U.S.C. § 1231. But they chose not to. Instead, Respondents used their lawful discretion to place Petitioner, alongside his then-six-year-old daughter, in removal proceedings under 8 U.S.C. § 1229a.

The Court further erred by overlooking the multiple authorities cited in Petitioner's reply brief. ECF 29 at 7-8. While the Court's Order adopts Respondents' reasoning by citing an unpublished Board of Immigration Appeals (BIA) case, Petitioner's reply cited two published BIA cases as well as relevant federal regulations that demarcate allowable grounds for dismissal of a case from immigration court:

> "[A]fter commencement of proceedings in the Immigration Court, [DHS] 'may move for dismissal of the matter on the grounds set out' in 8 C.F.R. § 239.2(c).'" *Matter of G-N-C-*, 22 I&N Dec. 281, 284 (BIA 1998). "This language marks a clear boundary between the time prior to commencement of proceedings, where a [DHS] officer has decisive power to cancel proceedings, and the time following commencement of proceedings, where a [DHS] officer merely has the privilege to move for dismissal of proceedings." *Id.* If such a motion is filed, the immigration judge must "make an informed adjudication . . . based on an evaluation of the factors" upon which DHS may move to terminate pursuant to the regulation. *Id.*; *accord Matter of W-C-B-*, 24 I&N Dec. 118, 122 (BIA 2007).

ECF 29 at 7-8. Indeed, as Petitioner's brief argued, Respondent's own declarant appeared to acknowledge this legal reality in his sworn statement that "DHS filed a motion to dismiss . . . because it *will reinstate* the Petitioner's prior removal order." ECF 29 at 8, citing ECF 16 at ¶ 12.

Petitioner's experience over the past month demonstrates, in practice, the error of the Court's conclusion. At oral argument, Petitioner contested the assumption that the motion to dismiss would be granted *a fortiori* and argued that there could be any number of reasons why the dismissal might not be granted. Here, that is exactly what happened: the government's motion to dismiss was rejected by the Seattle Immigration Court, which retains its jurisdiction over Petitioner's § 1229a proceedings. Pritchard Decl. ¶ 5. And because it was not granted, Respondent DHS cannot remove Petitioner on the competing order under 8 U.S.C. § 1231(a)(5).

Once removal proceedings begin under 8 U.S.C. § 1229a, Congress made it clear that those proceedings are the "sole and exclusive" proceedings for determining whether a noncitizen may be removed from the United States. 8 U.S.C. § 1229a(a)(3). The Court's Order holding otherwise contradicts this legislative intent, with the potential to lead to irrational outcomes–as is occurring in this case. Under the Court's interpretation, if Petitioner had already been removed to Guatemala notwithstanding his pending § 1229a proceedings, he would have still had a hearing before the Seattle Immigration Court on November 18, 2026. Had Petitioner not attended that hearing, he would have likely received an *in absentia* removal order for his failure to appear, with additional

legal consequences – despite the fact that Petitioner's absence was due to his removal by the U.S. government. *See* Pritchard Decl. ¶ 20. Moreover, if a noncitizen passes their reasonable fear interview, they are placed in "withholding-only" removal proceedings before the immigration court under yet a different statutory provision, 8 U.S.C. § 1231(b)(3). This would result, here, in two separate cases pending concurrently before the same court, subject to different legal standards. As explained by Petitioner's immigration counsel, this situation could lead "to the nonsensical result of a single respondent being granted asylum in their [§ 1229a] proceedings but ordered removed in their concurrent withholding-only proceedings with no clear indication of which order - the grant of asylum or the order of removal - should be given legal force." Pritchard Decl. ¶ 19.

The absurdity that can result from concurrent proceedings is also particularly apparent here because Respondents exercised their discretion to place Petitioner in consolidated removal proceedings with his derivative minor daughter. Proceeding with reinstatement against Petitioner while his § 1229a removal proceedings remain pending puts his daughter's case at great risk, since her interests are primarily represented by her father in their removal proceedings. *See, e.g.*, 8 C.F.R. § 1003.25(a) (allowing the immigration judge to waive the presence of a noncitizen who is "a minor child at least one of whose parents or whose legal guardian is present"); Immigration Court Practice Manual § 2.8 (allowing a "parent or legal guardian [to] appear before the immigration court and represent the child"). Without severance of their cases and termination of the Petitioner's case, his daughter remains in procedural limbo, with an upcoming immigration court hearing at which her father should supposedly appear – but clearly cannot if he has already been removed on his reinstated order.

B. Respondents did not comply with the requirements in 8 C.F.R. § 241.8 because they did not communicate with Petitioner in a language that he understood.

Separately, reconsideration of the Court's Order is appropriate because the Court failed to consider Petitioner's language when determining that Respondents had met the requirements for reinstating his prior order under 8 C.F.R. § 241.8.

8 C.F.R. § 241.8(b) requires that

> If an officer determines that an alien is subject to removal under this section, he or she shall provide the alien with written notice of his or her determination. The officer shall advise the alien that he or she may make a written or oral statement contesting the determination. If the alien wishes to make such a statement, the officer shall allow the alien to do so and shall consider whether the alien's statement warrants reconsideration of the determination.

In concluding that Respondents met this requirement, the Court considered ECF 15-1, Respondents' Form I-871 "Notice of Intent/Decision to Reinstate Prior Order". *See* ECF 38 at 16 (concluding that Respondents complied with the regulation "[b]ased on the exhibits" and citing only the Form I-871). Importantly, however, the Form I-871 indicated that "[t]he facts that formed the basis of this determination, and the existence of a right to make a written or oral statement contesting this determination, were communicated to the [noncitizen] in the Spanish language." ECF 15-1. Petitioner is a native speaker only of the indigenous Mam language. ECF 30 at ¶ 2. He is not fluent in Spanish. As his declaration attests, he "learned Spanish as a second language and can speak it at a rudimentary level and use it for simple interactions in daily life". ECF 30 at ¶ 2.

"It is long-settled that a competent translation is fundamental to a full and fair hearing." *Perez-Lastor v. I.N.S.*, 208 F.3d 773, 778 (9th Cir. 2000) (elaborating that "[i]f an alien does not speak English, deportation proceedings must be translated into a language the alien understands."), *citing Tejeda–Mata v. INS*, 626 F.2d 721, 726 (9th Cir.1980); *see also Matter of Tomas*, 19 I&N

Dec. 464, 465 (BIA 1987) (observing that competent interpretation "is important to the fundamental fairness of a hearing if the [noncitizen] cannot speak English fluently").

Here, Petitioner was not given notice and an opportunity to be heard on the reinstatement of his prior order in a language that he understood – the language required to explain a reinstated order is necessarily much more complicated than the Spanish used "for simple interactions in daily life" that Petitioner is able to understand. *See* ECF 30 at ¶ 2. Petitioner made this argument in his Reply Brief, explaining Respondents' failure to "provide Petitioner with a notice and an opportunity to respond to their intent to reclassify his case into reinstatement proceedings" in a language that he understood. ECF 29 at 13. Respondents' use of a language that Petitioner cannot speak fluently falls below the required level of "competent translation" required to provide for fundamental fairness in immigration proceedings. *See Matter of Tomas*, 19 I&N Dec. at 465. Because Respondents failed to give Petitioner notice and an opportunity to be heard in a language he understands, they did not meet all the requirements of 8 C.F.R. § 241.8(b) to lawfully reinstate his removal. Because the Court did not consider or reference Petitioner's language abilities in its Order, Petitioner requests reconsideration of whether Respondents have complied with the requirements for reinstating his prior order.

C. Even if his prior order had been lawfully reinstated, Petitioner's detention is not mandated by 8 U.S.C. § 1231(a)(2).

Finally, reconsideration of the Court's Order is necessary due to a clear error of law in interpreting 8 U.S.C. § 1231(a)(2). In concluding that 8 U.S.C. § 1231(a)(2) mandates detention for Petitioner, the Court interpreted the language of the statute to conclude that "Congress appears to have determined that detention during the removal period is mandatory." ECF 38 at 18. However, the Court's Order did not analyze whether the 90-day removal period referenced in the plain text of 8 U.S.C. § 1231(a)(2) properly applies to Petitioner's case.

As the Court's Order explains, 8 U.S.C. § 1231(a)(2) states that "[d]uring the removal period, the Attorney General shall detain the [noncitizen]", and the removal period begins to run on the latest of three dates, one of which is "[t]he date the order of removal becomes administratively final." Order at 18, *citing* 8 U.S.C. § 1231(a)(1)(B)(i). To the extent that Respondents believe the reinstatement of Petitioner's removal order begins a new removal period, the reinstatement of that order is not administratively final, and the removal period cannot recommence, because Petitioner's 8 U.S.C. § 1229a proceedings remain pending. To interpret the statute otherwise would be to enable the irrational results explained *supra* at § IV.A., allowing a noncitizen to simultaneously be ordered deported and granted relief in two separate, concurrent proceedings.

To the extent then that Respondents rely on Petitioner's prior removal order as administratively final, 8 U.S.C. § 1231(a)(2) still does not apply. There is no dispute that Petitioner's prior removal order became administratively final before it was effectuated in 2009. *See* Order at 3; *id.* at 18 ("No one in this case disputes that Petitioner's prior order of removal from 2009 is administratively final."). The 90-day removal period referenced in 8 U.S.C. § 1231(a)(2) thus expired approximately sixteen years ago. If Respondents lawfully completed the reinstatement of Petitioner's prior order – which Petitioner maintains cannot occur unless and until his § 1229a proceedings are dismissed – Petitioner would thus now be subject to the custody provisions of 8 U.S.C. § 1231(a)(3), "[s]upervision after 90-day period". This statutory provision requires that a noncitizen who "is not removed within the removal period . . . pending removal, shall be subject to supervision under regulations prescribed by the Attorney General," including "provisions requiring . . . [the noncitizen] to appear before an immigration officer periodically for identification". 8 U.S.C. § 1231(a)(3)(A). Following the 90-day period, the statute clearly

envisions release of a noncitizen on particular conditions. *See also* 8 U.S.C. § 1231(a)(6) (referencing a sub-group of noncitizens who "*if released*, shall be subject to the terms of supervision in [8 U.S.C. § 1231(a)](3)" (emphasis added)). 8 C.F.R. § 241.4 provides further guidance for when noncitizens determined "inadmissible", such as Petitioner, should be released beyond the removal period, outlining specific "Criteria for release" and "Factors for consideration" that "should be weighed in considering whether to recommend further detention or release of a detainee." 8 C.F.R. § 241.4(e)-(f).

Because Petitioner is no longer within his 90-day removal period, the plain terms of 8 U.S.C. § 1231(a)(2) do not apply. Instead, Respondents are required to make an individualized custody determination to justify Petitioner's detention under 8 C.F.R. § 241.4 and 8 U.S.C. § 1231(a)(3). Indeed, the day before this Court's order, the Court's Eugene Division granted a habeas petition on the grounds that Respondents had failed to follow the requirements of 8 C.F.R. § 241.4 in detaining a noncitizen whose prior removal order had been reinstated. *See M.S.L. v. Bostock*, No. 6:25-CV-01204-AA, 2025 WL 2430267, at *11-12 (D. Or. Aug. 21, 2025). Because Respondents made no such individualized determination in Petitioner's case, they have violated his Due Process rights.

D. Petitioner's conditions of confinement at Camp East Montana ("Fort Bliss") warrant expedited consideration of this motion.

The Court should consider this motion on an expedited basis because it relates to a petition for habeas corpus; district courts shall expedite consideration of such petitions. *See* 28 U.S.C. § 1657(a). Additionally, any other action may be expedited for "good cause". *Id.* Petitioner can demonstrate good cause justifying expedited consideration here because, due to the government's error regarding the legality of reinstating his removal order, Respondents are holding him in dire and unsafe immigration detention conditions. Since Petitioner was brought back to Texas, he has

been confined at the Fort Bliss facility. Pritchard Decl. at ¶ 17. Petitioner details that the facility is a recently built tent "warehouse" building and that each warehouse building houses around 60 people that sleep in bunk beds. Pet. Decl. at ¶ 16. Since his arrival, he has requested medical attention on at least three occasions after having a severe medical episode where felt he was passing out on the flight to Guatemala; he still has not recovered and continues to feel pressure on his chest. *Id.* at ¶ 17. Similarly, Petitioner's mental health has been rapidly declining; his detention has been an "ongoing nightmare" and he "cannot take [it] anymore" which leaves him feeling like he does not matter. *Id.* at ¶ 19-20. This feeling is exacerbated by the fact that he has barely been able to speak with his partner or daughters as he has no money to make calls and has relied on asking for short calls that last under a minute. *Id.* at ¶ 15. In addition to all this, Petitioner's uncertainty has increased by lack of access to counsel, as it was not until five days after being returned to the United States that he was able to speak with his attorney. Pritchard Decl. at ¶ 17. It is worth noting that Respondents did not indicate to Petitioner that he could contact his counsel; this access was only achieved because he managed to pass along the message to his partner who, in turn, contacted his counsel team, who had to undertake serious advocacy efforts to find and request access to him at the detention facility. *Id.* Such conditions likely violate Respondent ICE's own detention standards, which require the provision of appropriate living spaces; access to appropriate medical, dental, and mental health care; access to free calls to legal service providers; and access to telephonic calls to family members for the indigent. *See* U.S. Immigration and Customs Enforcement, National Detention Standards (2025), *available at* https://www.ice.gov/doclib/detention-standards/2025/nds2025.pdf at §§ 1.1, 4.4, 5.4.

Therefore, expedited consideration of the motion is appropriate under the circumstances.

V. CONCLUSION

For the reasons set forth above, Petitioner respectfully requests that the Court reconsider its August 22 Order and grant the writ of habeas corpus, ordering Petitioner's release from unlawful executive detention. Given the need for expedited consideration, Petitioner further requests that the Court use its equitable power to order the government to file any response to this motion by Monday, September 29, 2025, and to include in its response a clarification of Petitioner's current procedural posture, the detention authority under which he is being held, and the anticipated timeline for his next immigration court hearing, removal, or release from custody.

Dated: September 25, 2025.

/s/ Tess Hellgren

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