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14 **IN THE UNITED STATES DISTRICT COURT**
15 **FOR THE DISTRICT OF ARIZONA**

16 Khikmatdzhon Iakubov,

17 No. 2:25-cv-03187-KML--JZB

18 Petitioner,

19 **SUPPLEMENTAL BRIEF**

20 v.

21 Fred Figueroa, et al.,

22 Respondents.

23 Respondents provide this supplemental brief in compliance with the Court's order
24 (Doc. 12).

25 **I. Likelihood of Removal.**

26 Respondents have no additional information to provide. As disclosed in the Response
27 to the Motion for Temporary Restraining Order and Preliminary Injunction (Doc. 10), ICE
28 sent requests for assistance to the Consulate Generals of Uzbekistan, Kyrgyzstan, and
Hungary in April 2025, but has not received a response from any of those countries. Doc.
10 at Ex. A ¶ 18.

29 **II. Mootness.**

30 The Court asked the parties to address whether Petitioner's release would render
31 moot his other claims. Petitioner raised four claims for relief in his habeas petition. Claims
32 One through Three are related to his detention and would be rendered moot by his release.
33

1 Claim Four alleges that his “removal to any third country without adequate notice and an
2 opportunity to apply for relief under the Convention Against Torture would violate his due
3 process rights.” Doc. 1 at ¶ 94. Claim Four would not be mooted by Petitioner’s release from
4 ICE custody.

5 **III. Due Process Related to Third Country Removal.**

6 While the Immigration and Nationality Act (“INA”) provides for third-country
7 removals, it does not delineate a particular process for carrying out those removals. *See* 8
8 U.S.C. § 1231(b). More specifically, Congress did not provide a particular process for
9 ensuring that third-country removals remain consistent with the United States’s obligations
10 under the Convention Against Torture (“CAT”). Instead, it delegated to the Executive
11 Branch the responsibility for developing such procedures. *See* 8 U.S.C. § 1231 note
12 (providing that the “heads of the appropriate agencies shall prescribe regulations to
13 implement” the United States’s CAT obligations).

14 On March 30, DHS issued the March Guidance, clarifying its “policy regarding the
15 removal of aliens with final orders of removal pursuant to sections 240, 241(a)(5), or 238(b)
16 of the [INA] to countries other than those designated for removal in those removal orders.”
17 Ex. 1 at 1. The March Guidance distinguishes between removals to countries that have
18 provided credible assurances that any aliens removed there will not be persecuted or
19 tortured, and removals to those countries that have not done so. Ex. 1.

20 The March Guidance provides that an alien may be removed to a “country [that] has
21 provided diplomatic assurances that aliens removed from the United States will not be
22 persecuted or tortured.” *Id.* at 1. If the State Department finds that country’s assurances
23 credible, “the alien may be removed without the need for further procedures.” *Id.* at 1-2. The
24 Constitution requires nothing further. The Supreme Court has already held that when the
25 Executive determines a country will not torture a person on his removal, that is conclusive.
26 *Munaf v. Geren*, 553 U.S. 674, 702-03 (2008). Indeed, “[u]nder *Munaf* . . . the district court
27 may not question the Government’s determination that a potential recipient country is not
likely to torture a detainee.” *Kiyemba v. Obama*, 561 F.3d 509, 514 (D.C. Cir. 2009), *cert. denied*, 559 U.S. 1005 (2010). The “*Munaf* decision applies here a fortiori: That case

1 involved transfer of American citizens, whereas this case involves transfer of alien detainees
2 with no constitutional or statutory right to enter the United States.” *Id.* at 517-18
3 (Kavanaugh, J., concurring). When the Executive decides an alien will not be tortured
4 abroad, courts may not “second-guess [that] assessment,” at least unless Congress has
5 specifically authorized judicial review of that decision. *Id.* at 517 (citation omitted); *see*
6 *Munaf*, 553 U.S. at 703 n.6.

7 For aliens being removed to a third country not covered by an adequate assurance,
8 the March Guidance states that DHS will first inform the alien of removal to that country
9 and give him an opportunity to “affirmatively express a fear of persecution or torture” there.
10 *Id.* at 2. If he does so, an immigration officer will refer the alien to U.S. Citizenship and
11 Immigration Services (“USCIS”). USCIS will conduct a prompt screening to determine
12 whether he “would more likely than not be” be persecuted or tortured in the country of
13 removal. *Id.* If the alien fails to satisfy this standard, he “will be removed.” *Id.* If he does
14 satisfy it, he will be put into additional administrative procedures before the Immigration
15 Court. *See id.* “Alternatively, ICE may choose to designate another country for removal,”
16 and start the process afresh. *Id.*

17 Petitioner had the opportunity to raise CAT claims in his immigration proceedings,
18 voice fears as to any potential countries of removal, and move to reopen his proceeding as
19 new fears have arisen. The March Guidance explains that the government provides aliens
20 like Petitioner with additional process before removal to a third country. Ex. 1. That process
21 ensures that an alien will either be sent to a country where the United States has received
22 adequate assurance the alien will not be persecuted or tortured, or that the alien will be given
23 notice and an opportunity to be heard regarding any fear as to his country of removal. *Id.*

24 Respectfully submitted this 18th day of September, 2025.

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