

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

KENETH MENA TORRES

Petitioner,

v.

CAMILA H. WAMSLEY, Seattle Interim Field
Office Director, Enforcement and Removal
Operations, United States Immigration and
Customs Enforcement (ICE), *et al.*

Respondents

No. 3:25-cv-05772-TSZ-MLP

Agency No. A

**PETITIONER'S REQUEST TO CONSIDER
RESPONSE TO FEDERAL RESPONDENTS'
SURREPLY IN OPPOSITION TO TRO AND
PRELIMINARY INJUNCTION**

Mr. Mena requests the Court permit him to submit this supplement, which responds to the claim in the surreply that he raised argument for the first time in a reply brief, and that he has already asked the Court waive prudential exhaustion.

There are two high-level challenges Mr. Mena has made here: (1) people who sneak across the border are not subject to mandatory DHS detention in the same way as someone who walks up to an immigration inspection point or lands at an international airport and (2) although people who arrive at an inspection point or international airport are subject to mandatory detention (and expedited removal procedures) generally, the expedited removal statute (and its related detention provisions) do not apply to people who are classified as unaccompanied alien children. See Petition at 9 ¶ 43 (citing TVPRA). And that rather than being detained by DHS upon arrival, UAC are transferred to the custody of the Office for Refugee Resettlement. *Id.* ¶ 44. Mr. Mena did not raise the issue of TVPRA and its custody impact only in a reply. Paragraph 5 of the TRO application states that Mr. Mena was designated an unaccompanied alien child (UAC), he had been transferred to ORR custody upon arrival, and then

1 reunified with a proper sponsor as per the TVPRA. Respondent had sufficient notice of these two
2 challenges.

3 Mr. Mena did not expressly raise to the Immigration Judge that his status as a UAC should
4 impact release as a jurisdictional issue. Rather, he asserted that the IJ had authority under the general
5 detention statute for discretionary release. DOJ regulations contemplate that an Immigration Judge may
6 review a custody decision of the DHS District Director not of ORR. 8 C.F.R. § 1236.1(d)(1).
7 Respondent provide no basis to conclude that the IJ / DOJ would exercise jurisdiction to in effect
8 mediate a turf war between two other executive agency departments over detention authority, while
9 attempting to limit avenues for review within its own jurisdiction.
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13 Dated: September 30, 2025

Respectfully submitted,

14
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VERIFICATION

I represent Petitioner, Keneth Mena Torres, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petitioner's Response to the Federal Respondent's Opposition to the Petitioner's *Ex Parte* Application for Temporary Restraining Order and Motion for Preliminary Injunction are true and correct to the best of my knowledge.

Dated: September 30, 2025

Respectfully submitted,

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