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9 **IN THE UNITED STATES DISTRICT COURT**
 10 **FOR THE DISTRICT OF ARIZONA**

11 Viengkhone Sikeo,

12
 13 Petitioner,

14 v.

15 John E. Cantu, et al.,

16 Respondents.

No. 2:25-cv-03191-PHX-SHD (CDB)

**RESPONSE TO MOTION TO
 ENFORCE**

17 Respondents provide this preliminary response to the Motion to Enforce (Doc. 23)
 18 as directed by the Court (Doc. 24). The order gave Respondents 3 hours to respond to the
 19 Motion.

20 To comply with the Court’s order, Respondents assert that there is no basis for the
 21 Motion to Enforce. The Court previously ordered Respondents to release Petitioner from an
 22 immigration detention facility in this judicial district finding that the delegation of authority
 23 to revoke an OSUP was invalid and that because Petitioner’s removal had been stayed by
 24 the Immigration Court, the justification for detention no longer existed. Doc. 21 at 2-3.
 25 Petitioner was released from immigration detention on September 24, 2025.

26 Since Petitioner’s release, the Immigration Court has denied Petitioner’s motion to
 27 reopen proceedings finding there to be no good cause to do so. Ex. C. The Immigration
 28 Court also denied Petitioner’s Motion to Stay Removal. Ex. B. *See also* Ex. 1 at ¶ 9 (The

1 Immigration Court also denied emergency motions filed on October 31). Given that
2 Petitioner is subject to a valid and executable removal order, Petitioner's release was
3 revoked (Ex. D), and he was detained in California, where he resides, in order to execute his
4 removal.

5 On November 6, 2025, Petitioner filed a habeas corpus action in the United States
6 District Court for the Eastern District of California. *See Sikeo v. Albarran*, No. 1:25-cv-1505
7 (E.D. Cal.). The docket is restricted access, so the basis of the petition is unknown to
8 undersigned counsel, who was not able to obtain a copy from the United States Attorney's
9 Office for the Eastern District of California in the time allotted to file this response.
10 However, the court directed the respondents in that action to respond to the motion for
11 temporary restraining order by November 13 and temporarily enjoined Petitioner's removal.
12 *Sikeo v. Albarran*, No. 1:25-cv-01505 (E.D. Cal.) at Doc. 4 (order entered November 6,
13 2025).

14 The Motion to Enforce seeks an order from this Court directing Respondents in this
15 action to comply with the Court's prior order and release Petitioner from immigration
16 detention in California. However, "longstanding practice confirms that in habeas challenges
17 to present physical confinement-'core challenges'-the default rule is that the proper
18 respondent is the warden of the facility where the prisoner is being held, not the Attorney
19 General or some other remote supervisory official." *Rumsfeld v. Padilla*, 542 U.S. 426, 435
20 (2004) (collecting cases). "No exceptions to this rule, either recognized or proposed, apply
21 here." *Id.* at 436-36 (cleaned up). The only person with authority to release Petitioner is the
22 Warden at his detention center in California, not the Respondents in this action. Petitioner
23 already has a habeas pending in the Eastern District of California where he is detained.
24 Petitioner must pursue his claims in that forum and cannot do so here.

25 Petitioner is removable and is subject to detention in order to facilitate his removal.
26 Nothing about this Court's prior order insulated Petitioner from ever being detained or ever
27 being removed. Petitioner is subject to detention pending his removal, which is expected to
28 occur shortly, and which would have occurred already had this Court not previously
enjoined Petitioner's removal.

1 Respondents complied with this Court's order and released Petitioner from
2 immigration detention in September 2024. But nothing prevented Respondents from re-
3 detaining Petitioner, who is now detained in the Eastern District of California, to effectuate
4 his removal from the United States. If Petitioner wishes to challenge his detention in
5 California, he must do so in an brought in that jurisdiction. This Court has no jurisdiction to
6 order Petitioner's custodian, who is not within this judicial district, to release Petitioner from
7 immigration detention. Respondents were ordered to release Petitioner from custody in
8 September. They did so. There is nothing for this Court to enforce.

9 Respectfully submitted this 7th day of November, 2025.

10 TIMOTHY COURCHINE
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13 *s/ Katherine R. Branch*
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