UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

VICTOR MANUEL SANCHEZ LOPEZ, Petitioner, v. MICHAEL NESSINGER, WARDEN, DONALD W. WYATT DETENTION FACILITY; PATRICIA H. HYDE, ACTING FIELD OFFICE DIRECTOR OF U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT OFFICE – BOSTON; TODD M. LYONS, ACTING DIRECTOR OF U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT; and KRISTI NOEM, SECRETARY, DEPARTMENT OF HOMELAND SECURITY, Respondents.	Civil Action No. 1:25-CV-00484

OPPOSITION TO PETITION FOR WRIT OF HABEAS CORPUS AND MOTION TO DISMISS

Pursuant to the Court's September 26, 2025, Order, the United States, on behalf of Defendants Patricia H. Hyde, Acting Field Office Director of U.S. Immigration and Customs Enforcement Office – Boston; Todd M. Lyons, Acting Director of U.S. Immigration and Customs Enforcement; and Kristi Noem, Secretary, Department of Homeland Security, respectfully submits its Opposition to Petitioner's Petition for

Writ of Habeas Corpus ("Petition").[1] ECF 1. A review of Immigration records reveals that Petitioner has exhausted all administrative and federal remedies and is subject to final removal pursuant to 8 U.S.C. § 1231. Petitioner is not entitled to a bond hearing. Therefore, the writ should be denied.

I. INTRODUCTION

Petitioner Victor Manuel Sanchez Lopez is being held at the Donald W. Wyatt Detention Facility in Central Falls, Rhode Island while he awaits removal from the United States pursuant to a final order of removal. Petitioner has thoroughly exhausted his administrative remedies through the immigration courts, as well as requesting review by the Court of Appeals for the First Circuit. He is subject to a final removal order from which there is no further appeal. The law does not entitle Petitioner to release or to a bond hearing. To the contrary, Petitioner is subject to immediate removal from the United States. The United States respectfully requests this Court deny the petition as meritless.

II. GOVERNING LEGAL STANDARDS

A. Standard for a Motion to Dismiss Under Rule 12(b)(6).

Federal Rule of Civil Procedure 12(b)(6) provides for dismissal where the complaint fails to state a claim upon which relief can be granted. To withstand a motion to dismiss under Federal Rule 12(b)(6), "the complaint must contain sufficient

[1] The U.S. Attorney's Office does not represent the Warden of Wyatt Detention Facility.

factual matter, accepted as true, to state a claim to relief that is plausible on its face." *Cunningham v. Nat'l City Bank*, 588 F.3d 49, 52 (1st Cir. 2009) (internal quotation marks omitted) (quoting *Ashcroft v. Iqbal*, 556 U.S. 662 (2009); *Bell Atl. Corp. v. Twombly*, 550 U.S. 544 (2007). The Court, however, need not credit or accept mere conclusory statements or conclusions of law. *See Iqbal*, 556 U.S. at 678.

In deciding a motion to dismiss under Rule 12(b)(6), the court may consider the challenged pleading, together with any documents incorporated by reference in that pleading and matters subject to judicial notice. This category of documents may be considered without converting the motion to one for summary judgment, and includes documents annexed to the complaint, as well as documents referenced in, or integral to, the pleading. *Trans-Spec Truck Serv. v. Caterpillar Inc.*, 524 F.3d 315, 321 (1st Cir. 2008) (internal citations omitted).

B. Standard for a Motion for Summary Judgment Under Rule 56.

Summary judgment is appropriate when "the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." *Mulvihill v. Top-Flite Golf Co.*, 335 F.3d 15, 19 (1st Cir. 2003) (quoting Fed. R. Civ. P. 56(c)).[2]

[2] The United States frames this motion under Rule 56 in the alternative, given the submission of extrinsic evidence regarding Petitioner's status.

III. RELEVANT FACTUAL BACKGROUND

Petitioner Victor Manuel Sanchez Lopez is a citizen of Mexico. Exhibit A, page 5. Petitioner entered the United States illegally in 1999. Exhibit A, page 9. After leaving for a brief time in 2004, Petitioner again returned without permission and appears to have been present in the country ever since. *Id.* Petitioner was convicted of three separate drunk driving charges – 2006 (Petitioner crashed his vehicle into a wall near the freeway), 2009 (Petitioner, while intoxicated, was the driver in a motor vehicle accident), and 2019 (Petitioner drove from work to a friend's home after consuming alcohol, continued to consume alcohol, then drove towards home, crashed into another vehicle at a red light, fled the scene, and continued drinking upon returning home). *Id.* at 9, 13.

On July 16, 2019, the United States Department of Homeland Security ("DHS") issued a Notice to Appear for Petitioner to present himself at the Boston Immigration Court. *Id.* at 5. DHS alleged that Petitioner was not a United States citizen or national, arrived in the United States at an unknown date and unknown place (entered the country illegally), was not admitted or paroled after inspection, and was not in possession of any valid entry document required by the INA (reentry permit, board crossing card, unexpired immigrant visa, or other valid entry document). *Id.* DHS asserted that Petitioner was subject to removal pursuant to sections 212(a)(6)A)(i) and 212(a)(7)(A)(i)(I) of the INA. *Id.*

Petitioner admitted all the allegations, with the exception of entering the United States at an unknown date and unknown place. *Id.* at 6. Petitioner conceded

the charges of removability, and further designated Mexico as the country of removal. *Id.*

Petitioner subsequently filed an application for cancellation of removal on September 10, 2019. *Id.* Petitioner based his request on the alleged hardship his removal would cause two qualifying relatives, namely his minor children (both U.S. citizens). *Id.* at 10. Petitioner and his partner both provided information that, should Petitioner be removed, the partner and children would remain in the United States. *Id.* Petitioner provided information to the Immigration Judge that his children both suffered from lead poisoning, and the Judge considered the health and educational situation of both children. *Id.* The Immigration Judge ultimately denied Petitioner's request, finding that his claims failed to meet the required showing for cancellation, exceptional and extremely unusual hardship. *Id.* at 10-11. Nor did Petitioner warrant a favorable exercise of discretion.

Petitioner appealed this decision, and his appeal was denied in May of 2020, Petitioner having failed to show that he warranted a favorable exercise of discretion. *Id.* at 4. Upon dismissal of the appeal by the Board of Immigration Appeals ("BIA"), the order of removal entered by the Immigration Judge became final. *Id.* at 1-2; see 8 C.F.R. § 1241.1(a).

Petitioner next filed a timely motion to reopen in August of 2020, claiming that his alcohol treatment after his third DUI conviction was sufficient material and previously unavailable information to warrant reopening the proceedings. Exhibit B, page 2. Petitioner also argued limited and inadequate access to health care in Mexico

in support of his request. *Id.* at 3-4. The BIA was unpersuaded by Petitioner's arguments and supporting documentation, finding that his treatment of alcohol addiction insufficient reason to exercise discretion. *Id.* at 4. The BIA denied Petitioner's request to reopen proceedings on December 16, 2020. *Id.*

Petitioner subsequently appealed this denial to the Court of Appeals for the First Circuit, requesting a stay of removal proceeding. Exhibit C. The United States properly moved for summary disposition. *Id.* The Court, finding no abuse of discretion of the BIA's denial of the reopening request, denied Petitioner's request on April 26, 2022. *Id.* At this time, the final removal order remains undisturbed. *See* 8 C.F.R. §§ 1003.2, 1241.1.

IV. LEGAL ANALYSIS AND ARGUMENT

A. Petitioner's Claim that Detention Violates His Due Process Rights is Wholly Without Merit.

Although Petitioner demands immediate release for violation of his due process rights, he fails to acknowledge he is subject to a final deportation and removal order. Truly, he admitted that he is subject to removal. Petitioner further failed to disclose he fully exercised his due process rights during the last five plus years – full hearing in front of an Immigration Judge, appeal, review by the BIA, and further review by the Court of Appeals for the First Circuit.

Petitioner does not provide any legal basis to support his claim that his due process rights have been violated at this stage in the removal process. Instead, he provides, at best, an incomplete version of the facts in an unsupported Hail Mary

attempt to restart the process all over again.

Given that Petitioner is subject to a final order of removal, he is ineligible for release pursuant to Section 1231, which states in pertinent part, "when an alien is ordered removed, the Attorney General shall remove the alien from the United States within a period of 90 days (in this section referred to as the "removal period")." 8 U.S.C. § 1231(a)(1)(A). The statute further establishes parameters for calculation of the 90-day period, noting that the time commences on "the date the order of removal becomes administratively final." 8 U.S.C. § 1231(a)(1)(B)(i).

Petitioner failed to make any application in good faith for travel or departure from the United States, thus the removal period "shall be extended beyond the period of 90 days." 8 U.S.C. § 1231(1)(C). The statute provides for situations like the instant one, stating that "if the alien does not leave or is not removed within the removal period, the alien, pending removal, shall be subject to the supervision under regulations prescribed by the Attorney General," including periodic appearances before an immigration officer. *Id.* at 1231(a)(2). Petitioner has been subject to periodic appearances, and ICE has now arranged for his immediate removal from the country. Thus, his detention to facilitate execution of the final order is appropriate. Petitioner must be taken into custody to facilitate removal. Otherwise, an order of removal could never be executed.

B. **Petitioner's Claim Regarding Conditions of Confinement are Appropriately Directed to Warden Nessinger.**

Petitioner's second basis for seeking relief relates to the conditions of his

confinement at Wyatt Detention Facility, and specifically Petitioner's access to medication. The government notes that such claims are typically analyzed as civil rights claims, outside the "core" of federal habeas relief, and that release from custody (as opposed to an order specific to the condition at issue) is typically not the appropriate remedy for such claims. *See Nelson v. Campbell*, 541 U.S. 637, 643 (2004); *Warner v. Spaulding*, No. 18-cv-10850-DLC, 2018 WL 9838349, at *1 n.2 (D. Mass. Sept. 24, 2018); *Yalincak v. Bureau of Immigration and Customs Enforcement*, C.A. No. 08-328, 2008 WL 4646097, at *2 (D.R.I. Oct. 17, 2008).

With respect to the substance of this claim, the undersigned is aware from the Petition and from communications with counsel that Petitioner's counsel has reached out to Wyatt staff regarding the medical issue issues raised. While the undersigned does not represent Wyatt Detention Facility, undersigned counsel has received the attached Declaration of Warden Michael Nessinger, asserting that Petitioner has in fact received a full physical examination last weekend and is receiving all prescribed medications. Exhibit D. If removal is effectuated, Petitioner will be only be held at the Wyatt for a short period of time.

It does not appear from the docket that Wyatt has been served with the Petition.

V. CONCLUSION

For these reasons, Petitioner's writ should be dismissed. He is subject to final removal, having exhausted his administrative remedies and federal court review. His detention to facilitate removal is authorized under 8 U.S.C. § 1231. Thus, the Petition

should be dismissed in its entirety.

Respectfully submitted,
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CERTIFICATE OF SERVICE

I hereby certify that, on September 29, 2025, I caused the foregoing document to be filed by means of this Court's Electronic Case Filing (ECF) system, thereby serving it upon all registered users in accordance with Fed. R. Civ. P. 5(b)(2)(E) and Local Rules Gen 304.

Julie M. White

JULIE M. WHITE