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16 **UNITED STATES DISTRICT COURT**
17 **SOUTHERN DISTRICT OF CALIFORNIA**

18 IVAN RUDIUK,

19 Case No.: 25-cv-02600-BTM-SBC

20 Petitioner,

21 **RESPONSE TO PETITION FOR**
WRIT OF HABEAS CORPUS

22 v.

23 MERRICK GARLAND, et. al;

24 Respondents.

25 Respondents respectfully submit this response to Petitioner's habeas petition in
26 accordance with the Court's order, ECF No. 4. Petitioner is currently detained in
27 Immigration and Customs Enforcement (ICE) custody at the Imperial Regional Detention
28 Facility in Calexico, California.

29 ICE's position is that Petitioner is lawfully detained as there is a significant likelihood
30 of removal to a third country. *See* Declaration of Fernando Valenzuela (Valenzuela Decl.)
31 at ¶ 11. Petitioner is a native and citizen of Russia. On January 13, 2025, an Immigration

1 Judge (IJ) denied Petitioner's application for asylum and ordered him removed from the
2 United States to Russia. Within the same order, the IJ granted Petitioner's application for
3 statutory withholding of removal as to Russia. Since that time, ICE Enforcement and
4 Removal Operations (ERO) has worked to effectuate Petitioner's removal as expeditiously
5 as possible. Valenzuela Decl. at ¶¶ 6-10.

6 Petitioner is subject to a final, executable order of removal, which means that he has
7 no right to remain in the United States. ICE has long-standing authority to remove
8 noncitizens and resettle them in third countries where removal to the country designated in
9 the final order is "impracticable, inadvisable, or impossible." 8 U.S.C. § 1231(b)(2)(E)(vii);
10 *see also* 8 U.S.C. § 1231(b) (outlining framework for designation). Accordingly,
11 noncitizens like Petitioner, whose country of removal is providing difficulty, may be
12 removed and resettled in third countries.

13 Section 1231(b)(2)(E) provides that the Secretary of Homeland Security shall
14 remove the noncitizen to any of the following countries:

- 15 (i) The country from which the alien was admitted to the United States.
- 16 (ii) The country in which is located the foreign port from which the
alien left for the United States or for a foreign territory contiguous to the
United States.
- 17 (iii) A country in which the alien resided before the alien entered the
country from which the alien entered the United States.
- 18 (iv) The country in which the alien was born.
- 19 (v) The country that had sovereignty over the alien's birthplace when
the alien was born.
- 20 (vi) The country in which the alien's birthplace is located when the alien
is ordered removed.
- 21 (vii) If impracticable, inadvisable, or impossible to remove the alien to
each country described in a previous clause of this subparagraph, another
country whose government will accept the alien into that country.

24 *Id.* Accordingly, if the Secretary of Homeland Security is unable to remove a noncitizen to
25 a country of designation or an alternative country in subparagraph (D), the Secretary may,
26 in her discretion, remove the noncitizen to any country listed in subparagraphs (E)(i)
27 through (E)(vi). To effectuate Petitioner's removal to a third country, "ERO has contacted
28 Mexico, Ecuador, and Guatemala to request that Petitioner be accepted as a third country

1 removal. . . . As of February 5, 2025, each of these countries declined to accept him.”
2 Valenzuela Decl. at ¶ 8. On or about August 8, 2025, “ERO in Calexico requested
3 assistance from its Removal and International Operations (HQARIO) in processing
4 Petitioner for a third country removal. HQARIO is continuing to work with the State
5 Department on third country removal cases, including this case.” Valenzuela Decl. at ¶ 10.
6 According to the declaring officer’s experience, “there is a significant likelihood of
7 removal from the United States to a third country.” Valenzuela Decl. at ¶ 11.

8

9 DATED: October 31, 2025

Respectfully submitted,

10 ADAM GORDON
11 United States Attorney

12 *s/ Stephanie A. Sotomayor*
13 STEPHANIE A. SOTOMAYOR
14 Assistant United States Attorney

15 Attorneys for Respondents

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13 **UNITED STATES DISTRICT COURT**
14 **SOUTHERN DISTRICT OF CALIFORNIA**

15 IVAN RUDIUK,

16 Case No.: 25-cv-02600-BTM-SBC

17 Petitioner,

18
19 **DECLARATION OF FERNANDO**
20 **VALENZUELA**

21 v.

22 MERRICK GARLAND, et. al;

23 Respondents.

24
25 I, Fernando Valenzuela, pursuant to 28 U.S.C. § 1746, hereby declare under penalty
26 of perjury that the following statements are true and correct, to the best of my knowledge,
27 information, and belief:

28 1. I am currently employed by the U.S. Department of Homeland Security (DHS),
29 U.S. Immigration and Customs Enforcement (ICE), Enforcement and Removal Operations
30 (ERO), as Assistant Field Office Director for the Calexico suboffice of the ICE ERO San
31 Diego Field Office.

32 2. I have been employed by ICE as a law enforcement officer since August 7,
33 2005.

1 3. As Assistant Field Office Director of the Calexico, California suboffice of the
2 ICE ERO San Diego Field Office, I am responsible for, among other things, supervising the
3 daily operations of ICE ERO deportation officers assigned to the San Luis Regional
4 Detention Center in San Luis, Arizona and ensuring that those officers are in compliance
5 with all relevant laws, regulations, and policies.

6 4. This declaration is based on my personal knowledge and experience as a law
7 enforcement officer and information provided to me in my official capacity as Assistant
8 Field Office Director of the Calexico suboffice of the ICE ERO San Diego Field Office.

9 5. Petitioner is a native and citizen of Russia. He applied for admission to the
10 United States in the vehicle lane at the Calexico, California Port of Entry on June 3, 2024.
11 He was not then in possession of any valid immigration documents, nor did he have a valid
12 CBP One appointment.

13 6. At the time of his application for admission, Petitioner was determined to be
14 inadmissible under INA 212(a)(7)(A)(i)(I). He was then placed into expedited removal
15 proceedings pursuant to INA 235(b)(1).

16 7. On January 13, 2025, an Immigration Judge denied Petitioner's application for
17 asylum and ordered him removed to Russia. However, the IJ granted Petitioner's
18 application for statutory withholding of removal as to Russia.

19 8. ERO has a current, unexpired Russian passport for Petitioner on file. ERO has
20 contacted Mexico, Ecuador, and Guatemala to request that Petitioner be accepted as a third
21 country removal after the IJ entered a removal order. As of February 5, 2025, each of these
22 countries declined to accept him. Petitioner's order of removal became final on February
23 25, 2025.

24 9. ERO's removal efforts remain ongoing.

25 10. On or about August 8, 2025, ERO in Calexico requested assistance from its
26 Removal and International Operations (HQRIQ) in processing Petitioner for a third country
27 removal. HQRIQ is continuing to work with the State Department on third country removal
28 cases, including this case.

1 11. Based on my experience, there is a significant likelihood of removal from the
2 United States to a third country.

3 I declare under penalty of perjury under the laws of the United States that the
4 foregoing is true and correct.

5 Executed on October 31, 2025, in Calexico, California.



FERNANDO VALENZUELA
Assistant Field Office Director
San Diego Field Office
Enforcement and Removal Operations
U.S. Immigration and Customs Enforcement