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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

Saul PANUELAS GUTIERREZ,
Petitioner,

v.

Kristi NOEM, Secretary, Department
of Homeland Security; Todd LYONS,
in his official capacity as Acting
Director of U.S. Immigration and
Customs Enforcement; Pam BONDI,
Attorney General of the United States;
and David GOMEZ, Field Office
Director, San Bernardino ICE Field
Office.

Respondents.

No. 5:25-cv-02668-DOC-RAO

PETITIONER'S REPLY IN
RESPONSE TO OPPOSITION TO
MOTION FOR PRELIMINARY
INJUNCTION

Date of Hearing: Nov. 13, 2025

Time: 10:00 a.m.

Judge: Hon. David O. Carter
District Court Judge

Petitioner Saul Panuelas Gutierrez hereby replies to Respondents' November 10, 2025 Opposition to his motion for summary judgment.

First, as discussed in Petitioner's Points and Authorities, Petitioner's release pursuant to this Court's October 31, 2025 order does not moot the petition for writ of habeas corpus. This is not a case where Petitioner sought a bond hearing before an immigration judge, and therefore there is no other relief to provide. The only reason that Petitioner is out of custody is because this Court issued a Temporary Restraining Order, and if this case is dismissed, then nothing prevents Respondents from re-detaining Petitioner again without any evidence that a third country will accept him for removal.

Further, Respondents have attached Petitioner's Order of Supervision (Exh. A, Dkt # 18), which itself demonstrates that Petitioner is still in "custody" as he is "subject both to 'significant restraints on liberty ... which are not shared by the public generally,' along with 'some type of continuing governmental supervision.' " *Obado v. New Jersey*, 328 F.3d 716, 717 (3d Cir. 2003). The Order of Supervision, dated November 5, 2025, requires regular appearances before ICE, restricts travel to 75 miles outside of the area and to trips of less than 48 hours. Exh. A, Dkt # 18. He also is required to enroll in the Alternatives to Detention program for electronic monitoring. *Id.* He is clearly still in custody and his liberty is restricted, and this case is not moot. *Rodriguez v. Hayes*, 591 F.3d 1105, 1118 (9th Cir. 2010) reversed on other grounds by *Jennings v. Rodriguez*, 583 U.S. 281, 314, 138 S. Ct. 830, 852, 200 L. Ed. 2d 122 (2018) ("The strict limitations on Petitioner's freedom, therefore, provide an additional reason why his case presents a live controversy."); *Orellana Juarez v. Moniz*, No. 25-CV-11266-MJJ, 2025 WL 1698600, at *4 (D. Mass. June 11, 2025) ("Mr. Orellana Juarez lives in reasonable fear that a violation may result in physical detention, and ultimately trigger removal proceedings against him."); *Flores Salazar v.*

1 *Moniz*, No. CV 25-11159-LTS, 2025 WL 1703516, at *5 (D. Mass. June 11,
2 2025) (“Plainly, these conditions substantially limit Flores Salazar’s liberty and
3 vastly exceed restraints experienced “by the public generally.” ...The record
4 establishes that Flores Salazar remains in “custody” for purposes of § 2241. His
5 petition is not moot.”)

6 Next, Respondents argue that Petitioner’s claim regarding transfer is
7 moot. Dkt # 18 at 2. Petitioner does not seek a preliminary injunction on this
8 claim and agrees the claim is not properly before the Court.

9 Last, Petitioner’s claim that notice of third country removal is required is
10 properly before this Court. Respondents state that “[t]he government is continuing
11 to take steps to remove Petitioner to a third country.” Dkt # 18 at 4. However,
12 Respondents do not state that they will provide notice to Petitioner once, and if,
13 they have third country approval so that he may seek protection, if necessary,
14 before the immigration judge. They do not lay out what the government’s
15 procedures are when third country approval is received. As Respondents admit
16 that they are seeking third country approval, then an injunction is required to
17 ensure that Petitioner is properly given notice of any third country acceptance
18 before he is removed. *Nguyen v. Scott*, No. 2:25-CV-01398, 2025 WL 2419288, at
19 *19 (W.D. Wash. Aug. 21, 2025); *Ortega v. Kaiser*, No. 25-CV-05259-JST, 2025
20 WL 2243616, at *5 (N.D. Cal. Aug. 6, 2025); *Nguyen v. Scott*, No. 2:25-CV-
21 01398, 2025 WL 2419288, at *19 (W.D. Wash. Aug. 21, 2025); *Van Tran v.*
22 *Noem*, No. 25-CV-2334-JES-MSB, 2025 WL 2770623, at *3 (S.D. Cal. Sept. 29,
23 2025); *Garcia-Ayala v. Andrews*, No. 2:25-CV-02070-DJC-JDP, 2025 WL
24 2597508, at *3 (E.D. Cal. Aug. 8, 2025). *See also D.V.D. v. U.S. Dep’t of*
25 *Homeland Sec.*, 778 F. Supp. 3d 355, 389 (D. Mass.), *opinion clarified*, No. CV
26 25-10676-BEM, 2025 WL 1323697 (D. Mass. May 7, 2025), and *opinion*
27 *clarified*, No. CV 25-10676-BEM, 2025 WL 1453640 (D. Mass. May 21, 2025),
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1 *reconsideration denied sub nom. D.V.D v. U.S. Dep't of Homeland Sec., 786 F.*
2 *Supp. 3d 223* (D. Mass. 2025); *Aden v. Nielsen, 409 F. Supp. 3d 998, 1009* (W.D.
3 Wash. 2019).

4 As such, the Court should grant Petitioner's motion for preliminary
5 injunction.

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7 Dated: November 10, 2025

Respectfully Submitted,

S/Stacy Tolchin

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WORD COUNT CERTIFICATION

The undersigned, counsel of record for Petitioner certifies that this Memo contains 700 words, which complies with the word limit of L.R. 11-6.1.

s/ Stacy Tolchin
Stacy Tolchin
Counsel for Petitioner