



U.S. Department of Justice

United States Attorney  
Southern District of New York

86 Chambers Street  
New York, New York 10007

December 29, 2025

**By ECF**

The Honorable Jennifer H. Rearden  
United States District Judge  
Southern District of New York  
Daniel Patrick Moynihan United States Courthouse  
500 Pearl Street  
New York, New York 10007

Re: *Herrera v. Francis*, No. 25 Civ. 8602 (JHR)

Dear Judge Rearden:

This Office represents the respondents in the above-referenced habeas action. We write in response to the Court's order that the parties file a letter or letters updating the Court on the status of Petitioner's immigration proceedings. *See* Dkt. No. 30.

Earlier today, Petitioner's immigration counsel filed a letter informing the Court that, at his immigration court hearing on December 18, 2025, Petitioner decided to withdraw his asylum application and accept voluntary departure. Dkt. No. 31. The government confirms that on December 18, 2025, Petitioner did make an application to the Immigration Judge for voluntary departure in lieu of removal. The government further notes that, after that request, the Immigration Judge conducted a voir dire with Petitioner concerning his eligibility and desire to voluntarily depart, and the Department of Homeland Security did not oppose Petitioner's request for voluntary departure. Thus, on December 18, the Immigration Judge granted Petitioner pre-conclusion voluntary departure under safeguards.<sup>1</sup> *See* Voluntary Departure Order (attached). Per the order, Petitioner has until January 20, 2026, to depart the United States, or the voluntary departure grant will convert to a removal order. *Id.*

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<sup>1</sup> When an immigration judge grants voluntary departure "under safeguards," this means that the petitioner will remain detained pending departure. *See, e.g., Matter of M-A-S-*, 24 I. & N. Dec. 762, 766 (BIA 2009) ("the term 'voluntary departure with safeguards' is commonly used to characterize the requirement that an alien remain in custody until he or she departs from the United States"). When an alien is detained and granted voluntary departure, ICE will facilitate the alien's departure by assisting with travel arrangements and transporting the alien to the airport.

We thank the Court for its consideration of this submission.

Respectfully,

JAY CLAYTON  
United States Attorney for the  
Southern District of New York

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