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Pro Bono Attorneys for Petitioner

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

RAUL DE LA TORRE,

Petitioner,

V.

TODD M. LYONS, in his capacity as Acting Director of U.S. Immigration and Customs Enforcement, as well as his successors and assigns; **KRISTI NOEM**, in her capacity as Secretary of the U.S. Department of Homeland Security, as well as her successors and assigns; **PAMELA BONDI**, in her capacity as Attorney General of the United States, as well as her successors and assigns; **SERGIO ALBARRAN**, in his capacity as Field Office Director of the San Francisco Field Office of U.S. Immigration and Customs Enforcement, as well as his successors and assigns,

Respondents.

Case No. 3:25-cv-08998-JSC

**PETITIONER'S RESPONSE TO
ORDER TO SHOW CAUSE WHY
THE PETITION SHOULD NOT
BE DISMISSED, ORDER
VACATED**

Re: Dkt. No. 11

1 **Petitioner respondents as follows to the Court's Order to Show Cause why this**
2 **habeas case should not be dismissed, and the Court's Order of October 20, 2025 [Dkt. 10]**
3 **should not be vacated.**

4 Immediately upon filing the petition for the Writ of Habeas Corpus, lead counsel Angela
5 D. Warren (together with co-counsel Susan J. Cofano) called the Office of the U.S. Attorney in
6 San Francisco, California. In order to obtain the phone number of the U.S. Attorney's office,
7 counsel Angela Warren first confirmed the correct address of the U.S. Attorney's Office, and then
8 retrieved the number for the San Francisco office that is published online for the offices of the
9 U.S. Attorney.

10 Present counsels, Angela Warren and Susan Cofano jointly called the office.
11 A receptionist answered and did not identify nor make a distinction with regard to whether she
12 answered for the civil division or criminal division. Present counsels dutifully told the purpose
13 of the call (to notify of an immigration habeas case filing and a pending motion for TRO) asked
14 the receptionist if she could transfer us to someone in the office handles habeas corpus for
15 immigration purposes so that we could speak to him or her directly. The receptionist indicated
16 that Andrew Simmons was the duty attorney and the responsible party, and connected us to his
17 extension whereby his voicemail answered the phone. Present counsel left a message on Abraham
18 “Andrew” Simmons’s voicemail giving notice about what was going to be filed and asking that
19 he contact Ms. Warren, as lead counsel, to discuss the matter.

20 After the filing of the Motion for TRO, Assistant U.S. Attorney Andrew Simmons called
21 present petitioner counsel, Angela Warren, on the afternoon of October 20th, to seek additional
22 information. Both parties spoke about the case. Mr. Simmons stated that he had received the
23 pleadings but had not yet read them and asked about the stance of the case, when a response
24 was due, and when we wanted our client released to which Ms. Warren answered that she wanted
25 Petitioner released immediately. See **Exhibit A**, email from Angela Warren to Susan Cofano,
26 memorializing the telephone conversation between Mr. Simmons and Ms. Warren, in part.

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28 **PETITIONER'S RESPONSE TO ORDER TO SHOW CAUSE WHY THE PETITION**
 SHOULD NOT BE DISMISSED, ORDER VACATED

1 To our knowledge, the U.S. Attorney's office was on notice of the filing of the Petition
2 for Writ of Habeas Corpus and Temporary Restraining Order before the issuance of the TRO, at
3 such where they could object to the habeas petition and motion for a TRO.

4 Petitioner's counsel, Susan Cofano, believed that she correctly emailed Andrew Simmons
5 a copy of the Petition Habeas Corpus and the Motion for Temporary Restraining Office, as Mr.
6 Simmons has told Ms. Warren that he was in receipt of the pleadings but had not yet read them.
7 It was not until Assistant U. S. Attorney Pamela Johann called Ms. Warren's office early evening
8 on October 20th, at or around 6:00 pm, about the filing. Seemingly without reading the moving
9 papers that were filed, she indicated that she was the proper person who should have been served
10 and that she was the person in charge of habeas corpus matters in civil matters, and that 'we could
11 easily have found her.' However, the receptionist had informed us that Andrew Simmons was
12 the duty attorney at that time and the person we should (at least initially) contact. Counsel for the
13 Petitioner intentionally and specifically requested to be put through to the person handling habeas
14 corpus immigration cases and the receptionist had mentioned by name and then connected us to
15 Andrew Simmons, U.S. Attorney. At no time, did Andrew Simmons ever indicate in his phone
16 call with Ms. Warren that service was to be made (or should have been made) upon Assistant U.S.
17 Attorney, Pamela Johann. Present counsel properly served the U.S. Attorney's office when
18 interacting with Assistant U.S. Attorney Abraham (Andrew) Simmons who, along with their
19 receptionist, ostensibly gave present counsel the impression that he was the proper person to be
20 served.

21 It was not until early evening on October 20th that Assistant U.S. Attorney Pamela Johann
22 indicate that Mr. Simmons did not receive the emails that Petitioner's counsel emailed to him
23 earlier that day. Assistant U.S. Attorney Johann pointed out that Ms. Cofano had inadvertently
24 omitted 'us' in the email address, before 'doj.' That was obviously a scribner's error on the
25 part of the Petitioner's counsel and Petitioner should not be penalized for it. Upon finding out
26 the error, Ms. Cofano apologized immediately and immediately cured the defect by emailing
27 Assistant Johann all pleadings that had been filed in the case. A complete copy of Petitioner's
28

1 moving papers and all documents issued by the Court were emailed to Ms. Johann at 6:00pm,
2 6:01pm and 6:15 pm on October 20th, the same day the TRO was granted.
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4 The U.S. District Court, Northern District of California ("Northern District of California")
5 is the proper (or "a proper") venue for the filing of the petition for the Writ of Habeas and the
6 Motion for Temporary Restraining Order. While the U.S. Attorney's Office is objecting to
7 Northern District of California having jurisdiction, the facts weigh heavily in favor of Northern
8 District of California continuing to maintain jurisdiction.

9 **INTERDISTRICT ASSIGNMENT**

10 Initially, counsel for Petitioner wants to point out that the Habeas petition correctly
11 pointed out where the detention had been, and where counsel believed Petitioner to then be in
12 custody: Fresno. The Civil Cover Sheet filed with the petition noted the Petitioner's county of
13 residence: Fresno. And, the Habeas Petition included a section titled *IntraDistrict Assignment in*
14 *which Petitioner's counsel requested that the case be assigned to the Northern District of*
15 *California.* The reasons for such assignment are set forth below.

16 **Convenience of the Parties and Witnesses**

17 A party can file a motion to transfer under 28 U.S.C. § 1404(a) for the "convenience of
18 parties and witnesses, in the interest of justice," which would include the convenience of their
19 own counsel. Further, a district court may transfer any civil action to any other district. The
20 request for Interdistrict assignment was predicated on this code section because all relevant
21 persons and evidence are located within the Northern District. Petitioner's family and support
22 system, with the majority of advocacy by witness Blanca, whose background is advocacy, is
23 specifically an important key witness. Blanca is located and resides in Oakland, CA which is in
24 the Northern District of California. Another key witness, Miguel Olivares, who is not a family
25 member but is an integral part of this litigation because he too was a confidential witness, is
26 located in Antioch, CA (which is in the Northern District of California). In addition, Petitioner's
27 *pro bono* attorneys are located at 601 Montgomery St., San Francisco, which is clearly situated
28 within the jurisdiction of the Northern District of California. Maintaining the case in the Northern

1 District of California will minimize travel burdens for all concerned, will facilitate and expedite
2 communication, and ensure access to counsel and emotional support for Petitioner.

3 **Interest of Justice**

4 **Cure or waiver of defects**

5 Pursuant to 28 U.S. Code Section 1406(a) The district court of a district in which is filed
6 a case laying venue in the wrong division or district can transfer such case to any **district** or
7 division in which it could have been brought. Here, Petitioner has substantial ties to the Northern
8 District of California, as set forth above. Both the San Francisco Office ICE (Smuggling
9 Division) coordinated with Fresno DHS which did not have a smuggling unit at the time the
10 events occurred. San Francisco ICE, in concert with the Fresno Division of ICE, directed and
11 oversaw Petitioner's prior confidential cooperation, which establishes the locus of operative facts.
12 Therefore, the U.S. Northern District of California district has a direct and compelling connection
13 to the events at issue.

14 Further, under *Consumer Fin. Prot. Bureauv. Nationwide Biweekly Admin. Inc.*, 2015
15 U.S. Dist. Lexis 95004, this Court found that the purpose of 28 U.S.C. Section 1404(a) is to
16 "prevent the waste of time, energy and money and to protect litigants, witnesses and the public
17 against unnecessary inconvenience and expense." See also *Van Dusen, Barrack*, 376 U.S. 612,
18 616. 84 S. Ct. 805 11L.Ed.2d 945 (1964).

19 In the present matter, the factors in *Jones v. GNC Franchising, Inc.* 211 F.2d 495 (9th Cir.
20 2000) should be controlling. The District Court has broad discretion when weighing public and
21 private factors such that the analysis undertaking by the court will include an individualize
22 determination. *Stewart Org. Inc. v. Ricoh Corp.* 487 U.S. 22, 29 108 S.Ct. 2239, 101 L.Ed.2d 22
23 91988) (citations omitted.) The place where Petitioner was detained is not the only consideration
24 in deciding venue.

25 Moreover, assigning the matter to the Northern District of California, San Francisco
26 Division, will promote judicial efficiency and fairness by situating the case in the venue most
27 logically connected to its factual background. In *Decker Coal Co. v. Commonwealth Edison Co.*
28

1 805 F.2d 834, 843 1980 (Where it is established that deference should be given to the Plaintiff's
2 choice of Forum).

3 In the event that the Court is inclined to grant the Respondent's' challenge to venue,
4 Petitioner respectfully requests that the Court find it in the best interests of the Petitioner to
5 transfer the case to the Eastern District so as not to deny Petitioner of his liberty and other
6 protections of the Court until such time as the case is re-assigned.

7 **Current Stance of Adjustment of Status Case**

8 Yesterday, Ocotor 22, 2025, Petitioner notified present counsel that he received a *denial*
9 of the adjustment of status case. The notice also stated that Petitioner has redress rights of the
10 denial (which Petitioner plans to do). Petitioner has other avenues available to legalize his status.
11 One option is Cancellation of Removal. The other, a T visa, is another option based on Petitioner
12 having been a trafficked person as defined in immigration law.

13 **No Prejudice to Respondents**

14 Transfer to the Northern District of California district will not prejudice Respondents. The
15 Northern District divisions are functionally part of the same jurisdiction, and the government
16 regularly litigates immigration-related habeas cases in the San Francisco Division. Further,
17 witness that are a crucial part of the matter are located in the Northern District of California.

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CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that this Court maintain jurisdiction of this case brought forward in conjunction with the Petition for Habeas Corpus that properly requested interdistrict assignment to the San Francisco Division of the Northern District of California. Alternatively, should the Court be inclined to grant the motion to dismiss, Petitioner respectfully requests that the Order on TRO not be vacated, and that this matter be reassigned (transferred) to the U.S. District Court, Eastern District of California, as in the best interests of the Petitioner and so as to ensure continuing protection of his liberty.

Dated: October 23, 2025

Respectfully submitted

/s/ Angela D. Warren

Angela D. Warren, Esq.

Pro Bono Attorney for Petitioner

/s/ Susan J. Cofano

Susan J. Cofano, Esq.

Pro Bono Attorney for Petitioner