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11 **UNITED STATES DISTRICT COURT**
12 **SOUTHERN DISTRICT OF CALIFORNIA**

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14 MIGUEL CABRERA-TRILLO,
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Petitioner,
v.
KRISTI NOEM, et. al.,
Respondents.

Case No.: 25-cv-02865-CAB-MSB
**RESPONSE TO ORDER TO SHOW
CAUSE RE: INJUNCTION**

1 **I. INTRODUCTION**

2 Respondents hereby submit their response to the Court’s order to show cause why
3 Petitioner’s release should not continue under the same conditions as his last release
4 after its 14-day temporary restraining order expires on December 2, 2025.

5 **II. ARGUMENT**

6 “[A]n alien may be held in confinement until it has been determined that there is
7 no significant likelihood of removal in the reasonably foreseeable future.” *Zadvydas v.*
8 *Davis*, 533 U.S. 678, 701 (2001). Because there is a significant likelihood of Petitioner’s
9 removal to Mexico in the reasonably foreseeable future, Petitioner’s release should not
10 continue after the temporary restraining order expires. *See id.*

11 Immigration and Customs Enforcement’s (ICE) attempt at repatriating Petitioner
12 to Cuba proved unsuccessful on October 31, 2025, because the Cuban government did
13 not accept Petitioner for removal. *See* ECF No. 9-1 at ¶ 11. ICE is thus entitled to pursue
14 Petitioner’s removal to a third country under 8 U.S.C. § 1231(b). *See* 8 U.S.C.
15 § 1231(b)(2)(C) (allowing for third country removal where the petitioner’s country of
16 designation is not willing to accept him); § 1231(b)(2)(E) (allowing third country
17 resettlement where removal to the country designated in the final order is
18 “impracticable, inadvisable, or impossible”). To that end, ICE has identified Mexico as
19 a third country where Petitioner may be removed based on the country’s recent
20 agreement with the United States to accept individuals from Cuba, Haiti, Nicaragua,
21 Venezuela, Guatemala, Honduras, and El Salvador for third country removal. *See*
22 Declaration of Christian Mejia Limon (“Mejia Decl.”) at ¶ 5.

23 But to comply with the Court’s temporary restraining order, ICE must delay some
24 of its efforts to remove Petitioner to Mexico as once the country accepts Petitioner for
25 removal, removal will be imminent. *See id.* at ¶ 6. This is because once ICE submits the
26 request to the Mexican government, the country typically responds by the next day,
27 allowing for removal to occur that same week. *See id.* Based on Mexico’s recent
28 acceptances of other Cuban immigrants for third country resettlement, ICE expects that

1 the Mexican government will accept its request to accept Petitioner, too. *See id.*; *see*
2 *also Zadvydas*, 533 U.S. at 700 (instructing district courts “to listen with care when the
3 Government’s foreign policy judgments, including, for example, the status of
4 repatriation negotiations, are at issue, and to grant the Government appropriate leeway
5 when its judgments rest upon foreign policy expertise.”).

6 To apprise Petitioner that it has identified a third country for his removal, ICE
7 prepared a Notice of Removal, notifying him of his intended removal to Mexico, and
8 mailed the notice on November 21, 2025. *See Mejia Decl.* at ¶ 7; Exh. 1. ICE also
9 prepared for mailing that same day a Call-In Letter, requesting Petitioner to report to
10 ICE on December 8, 2025. *See Mejia Decl.* at ¶ 8; Exh. 2. On that date, ICE intends to
11 serve him a Notice of Revocation of Release and re-detain him to execute his removal
12 to Mexico. *See Mejia Decl.* at ¶ 8. As the temporary restraining order will have expired
13 by that time, ICE can promptly effectuate Petitioner’s removal to Mexico and plans to
14 execute removal within the week because there is no indication that Petitioner fears
15 being removed to Mexico. *See id.* Indeed, despite alluding to the possibility of removal
16 to Mexico in his brief and declaration and being represented by counsel, Petitioner has
17 expressed no such fear of removal to Mexico in this case. *See ECF No. 1* at 28
18 (Petitioner attesting only that he does not want to go to Mexico because he is not from
19 Mexico).

20 In any event, “[i]f Petitioner claims a fear of removal to Mexico, he will be
21 referred for a reasonable fear interview with an asylum officer.” *Mejia Decl.* at ¶ 9. By
22 the time of the Order to Show Cause hearing, Petitioner will have received written
23 notice of ICE’s intent to remove him to Mexico and sufficient time to raise a fear-based
24 claim. Thus, Petitioner’s concern that he will not receive adequate notice and an
25 opportunity to be heard prior to his third country removal is not borne out by the
26 evidence in this case. *See ECF No. 1* at 20.

27 As it stands, it would be premature for the Court to conclude that there is no
28 significant likelihood of removal in the reasonably foreseeable future before permitting

1 ICE an opportunity to complete its diligent efforts to effect Petitioner’s removal.
2 Evidence of progress, even slow progress, in negotiating a petitioner’s repatriation will
3 satisfy *Zadvydas* until the petitioner’s detention grows unreasonably lengthy. *See, e.g.,*
4 *Sereke v. DHS*, Case No. 19-cv-1250-WQH-AGS, ECF No. 5 at 5 (S.D. Cal. Aug. 15,
5 2019) (“The record at this stage in the litigation does not support a finding that there is
6 no significant likelihood of Petitioner’s removal in the reasonably foreseeable future.”);
7 *Marquez v. Wolf*, Case No. 20-cv-1769-WQH-BLM, 2020 WL 6044080, at *3 (S.D.
8 Cal. Oct. 13, 2020) (denying petition because “Respondents have set forth evidence that
9 demonstrates progress and the reasons for the delay in Petitioner’s removal”).

10 Accordingly, the Court should not continue Petitioner’s release when the
11 temporary restraining order expires.

12 III. CONCLUSION

13 For the reasons stated herein and in their prior response, Respondents respectfully
14 request the Court to deny the habeas petition and impose no further injunction
15 mandating Petitioner’s release from immigration custody.

16 DATED: November 24, 2025

Respectfully submitted,

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19 *s/ Erin Dimbleby*
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