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9 **UNITED STATES DISTRICT COURT**  
10 **SOUTHERN DISTRICT OF CALIFORNIA**

11 **MIGUEL CABRERA-TRILLO,**  
12  
13 **Petitioner,**

14 **v.**

15 **KRISTI NOEM, Secretary of the**  
16 **Department of Homeland Security,**  
17 **PAMELA JO BONDI, Attorney General,**  
18 **TODD M. LYONS, Acting Director,**  
19 **Immigration and Customs Enforcement,**  
20 **JESUS ROCHA, Acting Field Office**  
**Director, San Diego Field Office,**  
**CHRISTOPHER LAROSE, Warden at**  
**Otay Mesa Detention Center,**

21 **Respondents.**

**CIVIL CASE NO.:**  
**25-cv-02865-CAB-MSB**

**Reply to Respondents' Response to**  
**Order to Show Cause**

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1 **I. Introduction**

2 On November 18, 2025, the Court granted the habeas petition under  
3 *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001) because the Respondents could not  
4 establish that there was a significant likelihood of removal in the foreseeable future.  
5 ECF No. 11.<sup>1</sup> It ordered Respondents to show cause why Mr. Cabrera Trillo’s  
6 “release should not continue under the same conditions as his last release from  
7 immigration custody.” *Id.* at 7.

8 In response, Respondents now claim that they have identified Mexico as a  
9 third country. Respondents have not yet reached out to Mexico but based on past  
10 experience, Respondents claim that Mexico will accept Mr. Cabrera Trillo and that  
11 his removal is imminent. Thus, Respondents state that Mr. Cabrera Trillo will be  
12 re-detained on December 8, 2025 and removed to Mexico. ECF No. 13 at 3.

13 This Court should order that Mr. Cabrera Trillo cannot be re-detained  
14 because Respondents continue to fail to prove that there is a significant likelihood  
15 of Mr. Cabrera Trillo’s removal in the reasonably foreseeable future. The Court  
16 should order that he cannot be re-detained unless there has been a change in  
17 circumstances that creates a significant likelihood of his removal in the reasonably  
18 foreseeable future. *See Rodriguez-Gutierrez v. Noem*, 25-cv-02726-BAS-SBC,  
19 ECF No. 14 (Nov. 7, 2025).

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<sup>1</sup> During the habeas petition, Respondents admitted that Mr. Cabrera Trillo could  
28 not be removed to Cuba and Respondents had not yet identified a third country for  
removal. ECF No. 11 at 2.

1 **II. There is still no significant likelihood of removal in the foreseeable**  
2 **future.**

3 Mr. Cabrera Trillo cannot be re-detained because there is still no significant  
4 likelihood of removal in the foreseeable future.

5 **A. Mexico will not accept Mr. Cabrera Trillo because he does not**  
6 **willingly go to Mexico.**

7 Mexico recently agreed with the United States to accept individuals from  
8 Cuba, Haiti, Nicaragua, Venezuela, Guatemala, Honduras, and El Salvador for  
9 third-country removal. *See* Exhibit A (Declaration of Officer Martin Parsons, in  
10 *Rios v. Noem*, No. 25-CV-2866-JES (S.D. Cal.)) ¶ 7. However, Mexico will  
11 accept third-country deportees “only if [they] would willingly go to Mexico.” *Id.*  
12 ¶ 11.

13 The Mexican requirement that Cubans enter Mexico willingly in order to  
14 effectuate resettlement is consistent with what has been happening with several  
15 Cuban nationals.

16 Some Cubans, like Mr. Cabrera Trillo, are asked beforehand if they would  
17 willingly go to Mexico. In his declaration, Mr. Cabrera Trillo stated that while he  
18 was detained at Otay Mesa Detention Center, an immigration officer asked him if  
19 he would willingly be removed to Mexico and that he would be given money as  
20 an incentive to go. ECF No. 1 at 28, ¶ 7. Respondents have never disputed this  
21 fact.

22 Similarly, a district court in Colorado noted that ICE did not contest facts  
23 alleged by Cuban national that he was asked multiple times if he wished to  
24 “voluntarily” depart to Mexico. *Pena-Gil v. Lyons*, No. 25-CV-03268-PAB-NRN,  
25 2025 WL 3268333, at \*3 (D. Colo. Nov. 24, 2025). ICE conceded that efforts to  
26 remove petitioner to Mexico were subsequently cancelled. *Id.* Because  
27 Respondents were not able to identify a third country that would accept him, the  
28 district court determined that petitioner was being held in violation of *Zadvydus*  
because there was no significant likelihood of removal in the reasonable

1 foreseeable future. *Id.*

2 Other Cubans are taken to the United States-Mexico border without  
3 warning and told to walk towards Mexico. When they spontaneously speak up  
4 and state they do not want to go to Mexico, efforts to remove them to Mexico are  
5 cancelled. A declaration from another Cuban national illustrates this experience:

6 On October 1, 2025 at about 3:30 in the morning, I was told that I  
7 was being discharged from the detention center. I was very happy  
8 because I thought I was going to be released. They planed [me] in a  
9 van with other detainees and then [we were] taken to the Mexican  
10 border. They told me that I needed to cross into Mexico. They told  
11 me that if I did not cross the border, I would be put on a plane to  
12 Africa. I was afraid and confused. I asked if I could speak to a  
supervisor. After that, I was placed back into the van and brought  
back to the detention center.

13 Exhibit C (declaration of Carlos Rios); *accord* Exhibit D (declaration of Carlos  
14 Alberto Izquierdo-Matos).

15 Thus, experience shows that consistent with agreement between the US and  
16 Mexico, Mexico will accept those that willingly want to enter that country.

17 **B. Mr. Cabrera Trillo fears being removed to Mexico.**

18 Even if Mexico will accept Cubans that do not willingly want to enter  
19 Mexico, Mr. Cabrera Trillo “would be entitled to seek fear-based relief from  
20 removal to that country, which would require additional, lengthy proceedings.”  
21 *Munoz-Saucedo v. Pittman*, 789 F. Supp. 3d 387, 399 (D.N.J. 2025) (finding  
22 relevant to the reasonably foreseeable analysis the fact that fear-based relief would  
23 take additional time); *Zavvar v. Scott*, No. CV 25-2104-TDC, 2025 WL 2592543,  
24 at \*8 (D. Md. Sept. 8, 2025) (“The fact that Zavvar likely will have the opportunity  
25 to seek further relief from the Immigration Court, and then potentially file appeals  
26 from any adverse rulings, further demonstrates that removal is not likely in the  
27 reasonably foreseeable future.”).

28 Thus, “any efforts to remove [Mr. Cabrera Trillo] to a third country would

1 likely be delayed by proceedings contesting his removal to the third country finally  
2 identified.” *Villanueva v. Tate*, No. CV H-25-3364, 2025 WL 2774610, at \*10 (S.D.  
3 Tex. Sept. 26, 2025). “Applying for protection in withholding-only proceedings  
4 before an IJ would typically involve preparing witness testimony, documentation  
5 of country conditions, and expert reports supporting the claim to protection.”  
6 *Kumar v. Wamsley*, No. C25-2055-KKE, 2025 WL 3204724, at \*5 (W.D. Wash.  
7 Nov. 17, 2025).

8 After being informed that ICE is now claiming that it will seek to remove  
9 him to Mexico, Mr. Cabrera Trillo informed undersigned counsel that he fears  
10 being removed to Mexico and will seek fear-based relief.

11 **III. Conclusion**

12 Thus, this Court should find that Respondents continue to fail to prove that  
13 there is a significant likelihood of Mr. Cabrera Trillo’s removal in the reasonably  
14 foreseeable future.

15 The Court should order that Mr. Cabrera Trillo cannot be re-detained unless  
16 there has been a change in circumstances that creates a significant likelihood of his  
17 removal in the reasonably foreseeable future.

18  
19 Respectfully submitted,

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21 Dated: December 1, 2025

*s/ Zandra L. Lopez*  
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