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10 UNITED STATES DISTRICT COURT
11 FOR THE NORTHERN DISTRICT OF CALIFORNIA
12 SAN JOSE DIVISION
13

14 Eladio CORTEZ MORALES,

15 *Petitioner,*

16 v.

17 Sergio ALBARRAN, Field Office Director of
18 the San Francisco Field Office of U.S.
19 Immigration and Customs Enforcement;
20

21 Todd M. LYONS, Acting Director, Immigration
22 and Customs Enforcement, U.S. Department of
23 Homeland Security;
24

25 Kristi NOEM, in her Official Capacity,
26 Secretary, U.S. Department of Homeland
27 Security; and
28

Pam BONDI, in her Official Capacity, Attorney
General of the United States;

Respondents.

Case No.: 3:25-cv-9241

**REPLY TO RESPONDENTS'
RESPONSE TO MOTION FOR
TEMPORARY RESTRAINING
ORDER**

IMMIGRATION HABEAS CASE

1 **I. INTRODUCTION**

2 Petitioner Eladio Cortez Morales (“Mr. Cortez Morales”) submits this reply to briefly
3 address Respondents’ arguments in opposition to his motion for a Temporary Restraining Order
4 (“TRO Motion”).

5 **II. ARGUMENT**

6 In the Court’s Order today, Dkt. 3, it instructed Respondents to address whether or not
7 they intend to detain Petitioner at his immigration appointment today at 3pm. Respondents have
8 not provided this information, despite the fact that they have almost certainly made a decision
9 about what they intend to do at 3pm, just a few hours hence. The fact that Respondents’ counsel
10 cannot provide the Court with the answer to this question is troubling, particularly because
11 undersigned Counsel contacted Respondents’ counsel over 30 hours ago to ask for this
12 information and to put Respondents on notice of the impending motion for TRO. At
13 Respondents’ counsel’s behest, undersigned Counsel agreed to wait to file the motion for TRO
14 so that Respondents’ counsel could provide this information and hopefully obviate the necessity
15 of a TRO. Respondents’ counsel has still not provided this information, despite the fact that
16 Respondents have almost certainly decided whether they intend to arrest Petitioner at his
17 appointment in two hours’ time.

18 Respondents argue that this motion for TRO is premature, but numerous district courts
19 have found that the threat of future re-arrest and re-detention is sufficient to order a remedy
20 tailored to prevent a constitutional violation from occurring. See, e.g., *Ortega I*, 415 F. Supp. 3d
21 963; *Ortega v. Kaiser*, 2025 WL 1771438 (N.D. Cal. June 26, 2025) (“*Ortega IF*”); *Ortega III*,
22 2025 WL 2243616 (N.D. Cal. Aug. 6, 2025); *Garcia v. Bondi*, 2025 WL 1676855 (N.D. Cal.
23 June 14, 2025); *Diaz v. Kaiser*, 2025 WL 1676854 (N.D. Cal. June 14, 2025) (“*Diaz F*”); Order
24 Granting Motion for Preliminary Injunction, *Diaz v. Kaiser*, No. 25-cv-05071-TLT, Dkt. 35
25 (N.D. Cal. Sept. 16, 2025) (“*Diaz IF*”); *Zakzouk v. Becerra*, 2025 WL 2097470, at *2 (N.D. Cal.
26 July 26, 2025); *Qian Sun v. Ernesto Santacruz Jr. et al.*, 2025 WL 2730235 (C.D. Cal. Aug. 26,
27
28

2025); *Asif M Qazi v. Albarran*, et al., No. 2:25-cv-02791-TLN-SCR, Dkt. 7 (E.D. Cal. Sept. 29, 2025).

In Mr. Cortez Morales' case, as in the above cases, Respondents have given no assurances that they do not intend to re-detain him, or that if they do, that notice and a hearing would be provided to comport with due process and avoid the risk of erroneous deprivation of his liberty. Under such circumstances, courts have recognized that when Respondents refuse or fail to give such assurances, the lack of assurance carries weight and factors into the assessment of the risk of injury. See, e.g., *Sun*, at *7 ("Sun's imminent check-in appointment, and ICE's failure to provide any assurance that it will not re-detain her at that appointment, clearly establish a risk of irreparable harm entitling *Sun* to injunctive relief."); *Pinchi v. Noem*, 2025 WL 2084921, at *6 (N.D. Cal. July 24, 2025) ("[Petitioner] is out of ICE custody only because of a court order, and the government has given no assurance that she will not face immediate re-detention in the absence of an injunction."); *Hai Chieu Dam v. Robbins et al.*, No. 2:25-cv-08133-JWH-MAA, Dkt. 7 (C.D. Cal. Sept. 16, 2025) (distinguishing *Ortega I* from the facts in *Dam*, where the government in *Ortega I* "refused to provide any assurance that [the petitioner would] not be re-arrested," versus in *Dam*, the government gave the assurance, "ICE does not intend to detain the Petitioner.") (emphasis in original) (quoting *Ortega I*, 415 F. Supp. 3d at 969). In Mr. Cortez Morales' case, we have no such assurance from ICE.

III. CONCLUSION

For all the above reasons, and those stated in Mr. Cortez Morales' TRO Motion, this Court should grant the TRO.

Dated: October 28, 2025

Respectfully submitted,

/s/ Peter Weiss

Peter Weiss

PANGEA LEGAL SERVICES

Pro Bono Attorney for Petitioner