



U.S. Department of Justice

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The Honorable Lawrence J. Vilardo
United States District Judge
Robert H. Jackson United States Courthouse
2 Niagara Square
Buffalo, New York 14202

**Re: Quiroz v. Marich, et al.
25-CV-01166-LJV**

Dear Judge Vilardo:

The government agrees that the pending Motion to Dismiss (ECF No. 20) can simply be construed as applying to the amended petition.

The government must correct a factual misstatement that appears in the Amended Petition, however, which has already been pointed out to Petitioner's counsel, and yet continues to be repeated. As previously noted, this Office's communications regarding the imminency of Petitioner's removal were based on Petitioner's waiver of review by an immigration judge of the finding by an asylum officer that he lacked a credible fear of removal. *See* ECF Nos. 15, 19. At the time the December 15 letter was filed, Petitioner was subject to imminent removal due to his waiver of review, but for this Court's order staying removal. Indeed, ICE could have removed him within 14-21 days.

Petitioner's counsel now argues—again—that such a representation by this Office was “premature” and that the government should be held to its word regarding the removal timeframe. ECF No. 23 at ¶¶ 41-42. This argument completely ignores subsequent events taken by Petitioner—including his revocation of waiver *after* this Office advised of imminent removal. Indeed, two days after this Office filed its letter regarding removal, Petitioner's counsel then reached out to ICE to seek review of the negative fear finding, which then prevented ICE from removing Petitioner. *See* this Office's letter dated December 15, 2025, at ECF No. 12; Petitioner's counsel's emails to ICE dated December 17, 2025 at ECF No. 19.

Thus, the government did not act prematurely or make any misrepresentations to this Court; the information contained in the December 15 letter was accurate at the time it was filed. It was Petitioner's own actions that rendered it inapplicable due to his complete reversal *after* the government filed its letter. And in direct contradiction to Petitioner's statement in the Amended Petition, ECF No. 23 at ¶ 41, the government *did not concede* that the December 15 letter was submitted prematurely, and, in fact, pointed out in a subsequent

letter that it was Petitioner's actions that rendered the December 15 letter inapplicable. *See* ECF No. 19. Thus, this factual statement regarding the procedural history not only lacks evidentiary support, but it is also contradicted directly by the evidence. *See* Federal Rule of Civil Procedure 11(b) ("By presenting to the court a pleading, written motion, or other paper—whether by signing, filing, submitting, or later advocating it—an attorney or unrepresented party certifies that to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances . . . the factual contentions have evidentiary support . . .").

Respectfully submitted,

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BY: /s/ Adam A. Khalil
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