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Via ecef
Judge Sanket J. Bulsara
U.S. District Court, Eastern District of New York

Re: Francisco Franco v. Lyons, et.al.
Civil Action 26-cv-00508

Your Honor:

In reply to the government's response, please note that due process and the Administrative Procedure Act enable Petitioner to apply for relief despite the prior expedited removal orders. The Immigration and Nationality Act permits an alien to file an application to reapply for admission which effectively overcomes a removal order by filing Form I-212 with USCIS. Also Customs Border Patrol permits an alien to challenge an expedited removal order. The government's arrest of Petitioner would unlawfully strip him of his rights to purse these two relief options permitted under the Act.

ICE arrested Petitioner while he had a pending application for permission to reapply for admission ("Form I-212") with USCIS. Petitioner had mailed Form I-212 with supporting documents to USCIS on December 16, 2025. **Exhibit A**. We are waiting for USCIS to issue a receipt. Southern District of New York Judge Crotty granted habeas relief where the petitioner intended to file Form I-212 to undo the effect of a prior removal order. In Calderon v. Sessions, 330 F.Supp.3d 944, 950 (Dist. Court, SD New York 2018), Judge Crotty stayed the alien's removal pending, among other events, denial of his Form I-212, and ordered ICE to release him without supervised release, while the stay is in force. The judge ruled that due process and the Administrative Procedure Act entitled him to apply for waivers available to him under existing regulations. Id.. at 959.

Additionally, Petitioner has the right to challenge the prior expedited removal orders under 8 C.F.R. §103.5(a)(1) with Customs Border Patrol by asking the agency to reopen and reconsider. DHS v. Thuraissigiam, 591 U.S. 103 (2020). The Court noted that DHS "officials...may reopen cases or reconsider decisions," in expedited removal. Id. at 1983 n. 28.

Respectfully submitted,

/s/ Leonard H. Hecht
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