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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA**

BERNABE GODINEZ HERNANDEZ

Petitioner,

v.

MARKWAYNE MULLIN, et al.

Respondents

Case No. 3:26-cv-00219-ART-CSD

**PETITIONER'S MOTION FOR
ADDITIONAL EQUITABLE
RELIEF SEEKING EXPEDITED
DISCOVERY REGARDING
RESPONDENTS' COMPLIANCE
WITH THIS COURT'S ORDER
AND THEIR EFFORTS TO
FACILITATE PETITIONER'S
RETURN TO THE UNITED
STATES**

Petitioner, through undersigned counsel, respectfully moves this Court for additional equitable relief in the form of expedited discovery concerning Respondents' actions—or failure to act—to comply with this Court's Order granting the Petition for Writ of Habeas Corpus and directing Petitioner's immediate release. Specifically, Petitioner requests narrowly tailored expedited discovery requiring Respondents to disclose what actions, if any, they have undertaken to facilitate Petitioner's return to the United States after Respondents removed him from the country in direct contravention of this Court's Order.

This motion does not ask the Court, at this juncture, to compel Respondents to

1 immediately return Petitioner to the United States. Rather, Petitioner seeks the information
2 necessary for this Court to determine whether Respondents have complied with, frustrated, or
3 continue to frustrate the Court's prior judgment and whether additional equitable relief is
4 warranted to effectuate that judgment.
5

6 **I. INTRODUCTION**

7 This motion presents a narrow but critically important question that remains unanswered
8 following this Court's grant of habeas relief: What, if anything, have Respondents done to
9 comply with this Court's Order after learning that Petitioner had been removed from the United
10 States?
11

12 That question lies exclusively within Respondents' possession.

13 After full briefing and oral argument, this Court granted Petitioner's Petition for Writ of
14 Habeas Corpus after concluding that his continued detention was unlawful because DHS had
15 granted him Deferred Action, thereby eliminating the statutory basis for his detention pending
16 removal. [ECF No. 16] The Court ordered Respondents to release Petitioner no later than 5:00
17 p.m. on April 7, 2026.
18

19 Following entry of the Court's Order, Respondents informed the Court that Petitioner had
20 already been removed to Guatemala earlier that same day. In response to this Court's subsequent
21 Minute Order, Respondents submitted declarations from Supervisory Detention and Deportation
22 Officer Christopher Hudson and Assistant United States Attorney Martin Mayer addressing
23 limited aspects of Petitioner's removal. Those declarations establish three significant facts.
24

25 First, Respondents unequivocally acknowledge that Petitioner's Deferred Action "was not
26 revoked, suspended, or otherwise ineffective." Second, Respondents explain that Petitioner's
27 removal had been planned before the Court issued its written Order and that Petitioner had
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1 already landed in Guatemala by the time the Order was entered. Third, Respondents represent
2 that Government counsel forwarded the Court's Order to DHS personnel within minutes after
3 receiving it.

4 Those declarations, however, leave unanswered the question now before the Court.

5 Neither declaration addresses what actions, if any, Respondents undertook after learning of
6 this Court's Order. They do not explain whether any official evaluated facilitating Petitioner's
7 return, whether ICE communicated with Customs and Border Protection, United States
8 Citizenship and Immigration Services, or the Department of State, whether parole or any other
9 lawful mechanism for return was considered, whether diplomatic efforts were initiated, or
10 whether Respondents simply determined that no action would be taken. Likewise, Respondents
11 have not identified the officials responsible for those decisions or explained the legal basis
12 supporting any decision not to act.

13 These omissions are not incidental. They concern the very information necessary for this
14 Court to determine whether Respondents have complied with its judgment and whether
15 additional equitable relief is necessary to ensure that Petitioner's case proceeds "as it would have
16 been had he not been improperly" removed. *Noem v. Abrego Garcia*, 604 U.S. ___, 145 S. Ct.
17 1017, 1018 (2025).

18 Federal courts possess inherent authority to enforce their own judgments, and Rule 26
19 authorizes expedited discovery where good cause exists. In *Garcia v. Noem*, 348 F.R.D. 589 (D.
20 Md. 2025), the district court granted expedited discovery under nearly identical circumstances
21 after the Government removed a prevailing habeas petitioner from the United States. The court
22 concluded that expedited discovery was necessary to determine "what, if anything," the
23 Government had done to facilitate the petitioner's return and whether it had complied with the
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1 court's prior orders. *Id.* at 591-93.

2 Petitioner is not presently asking this Court to compel his return to the United States. Rather,
3 he seeks narrowly tailored discovery directed solely to Respondents' post-Order conduct so that
4 the Court may determine whether Respondents have complied with its judgment, whether they
5 continue to frustrate that judgment, and whether further equitable relief is necessary to restore
6 Petitioner to the position he would have occupied had the Court's Order been timely effectuated.
7

8 **II. PROCEDURAL HISTORY**

9 Petitioner initiated this action pursuant to 28 U.S.C. § 2241 challenging the legality of his
10 continued detention by Immigration and Customs Enforcement. [ECF No. 1]. Throughout these
11 proceedings, Respondents maintained that Petitioner's detention was authorized under a
12 reinstated order of removal.
13

14 After expedited briefing and oral argument, this Court rejected Respondents' position. In its
15 written Order, the Court concluded that because DHS had granted Petitioner Deferred Action,
16 Respondents no longer possessed statutory authority to continue detaining him for purposes of
17 removal. Accordingly, the Court granted the Petition for Writ of Habeas Corpus and ordered
18 Respondents to release Petitioner no later than 5:00 p.m. on April 7, 2026.
19

20 Shortly thereafter, Petitioner informed the Court that, rather than releasing him as ordered,
21 Respondents had already removed him to Guatemala earlier that same day. The Court thereafter
22 directed the parties to provide additional information concerning Petitioner's Deferred Action
23 status and the circumstances surrounding his removal.
24

25 In response, Respondents filed a Status Report confirming that Petitioner's Deferred Action
26 had not been revoked, suspended, or otherwise rendered ineffective. Respondents supported that
27 filing with the Declaration of Supervisory Detention and Deportation Officer Christopher
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1 Hudson. [ECF No. 21]

2 Mr. Hudson states that Petitioner's removal had been scheduled before the Court issued its
3 written Order. According to Mr. Hudson, removal planning began on March 23, 2026; travel
4 arrangements were finalized on March 27, 2026; Petitioner departed Eloy, Arizona at
5 approximately 3:15 a.m. Mountain Standard Time on April 7, 2026; and he had already arrived
6 in Guatemala before this Court entered its written Order later that afternoon. Mr. Hudson further
7 confirms that Petitioner's Deferred Action remained fully effective throughout these events.
8

9 Respondents also submitted a declaration from Assistant United States Attorney Martin
10 Mayer. Mr. Mayer states that after the April 6 hearing he did not communicate with DHS
11 personnel concerning Petitioner until after this Court entered its Order on April 7, 2026.
12 According to Mr. Mayer, he received the Court's Order at approximately 1:30 p.m. and
13 forwarded it to DHS personnel via email four minutes later, at approximately 1:34 p.m.
14

15 While these declarations answer certain historical questions regarding the timing of
16 Petitioner's removal and the continued validity of his Deferred Action, they do not address the
17 issue now before this Court. Neither declarant identifies any actions undertaken after
18 Respondents learned of this Court's Order to effectuate that Order, to facilitate Petitioner's return,
19 or to restore Petitioner to the position he would have occupied had Respondents been able to
20 comply with the Court's directive.
21

22 Specifically, Respondents have not disclosed whether they communicated with CBP, USCIS,
23 the Department of State, ICE Headquarters, or any other component of DHS regarding
24 Petitioner's return; whether any official considered parole or another lawful mechanism for his
25 return; whether diplomatic channels were utilized; whether any internal deliberations occurred
26 after receipt of the Court's Order; or whether Respondents concluded that no further action
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1 would be taken.

2 Thus, despite Respondents' supplemental filings, the record remains silent regarding the very
3 conduct that now determines whether Respondents have complied with this Court's judgment.
4 Because that information is uniquely within Respondents' possession, expedited discovery is
5 necessary to enable both Petitioner and this Court to determine whether additional equitable
6 relief is warranted.
7

8 **III. LEGAL STANDARD**

9 Federal courts possess both statutory authority and inherent equitable power to enforce their
10 own judgments and to fashion additional relief necessary to ensure those judgments are given
11 meaningful effect. The Constitution guarantees the availability of the writ of habeas corpus "to
12 every individual detained within the United States." *Hamdi v. Rumsfeld*, 542 U.S. 507, 525, 124
13 S. Ct. 2633, 159 L. Ed. 2d 578 (2004) (citing U.S. Const., art I, § 9, cl. 2). "[T]he essence of
14 habeas corpus is an attack by a person in custody upon the legality of that custody, and . . . the
15 traditional function of the writ is to secure release from illegal custody." *Preiser v. Rodriguez*,
16 411 U.S. 475, 484, 93 S. Ct. 1827, 36 L. Ed. 2d 439 (1973). The Court's authority does not end
17 once judgment has been entered. Rather, a district court retains jurisdiction to enforce its own
18 orders and to ensure that its judgment is not rendered ineffectual through subsequent events. *See*
19 *United States v. New York Telephone Co.*, 434 U.S. 159, 172-74 (1977) (recognizing the federal
20 courts' inherent authority under the All Writs Act to issue orders necessary to effectuate their
21 jurisdiction and judgments).
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25 Federal Rule of Civil Procedure 26(b)(1) authorizes discovery regarding any nonprivileged
26 matter relevant to a party's claims or defenses and proportional to the needs of the case. Although
27 expedited discovery is not the norm, district courts possess broad discretion to permit such
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1 discovery upon a showing of good cause.

2 The Ninth Circuit has expressly recognized that expedited discovery is appropriate where
3 significant questions exist concerning compliance with a court order. *Cal. Dep't of Soc. Servs. v.*
4 *Leavitt*, 523 F.3d 1025, 1033-34 (9th Cir. 2008). Likewise, courts have authorized expedited
5 discovery where, absent such discovery, a party cannot determine whether the opposing party
6 has complied with a judicial injunction. *See Palmer v. Rice*, 231 F.R.D. 21, 25 (D.D.C. 2005).

8 Recently, the United States District Court for the District of Maryland applied these
9 principles in circumstances remarkably similar to those presented here. In *Garcia v. Noem*, 348
10 F.R.D. 589 (D. Md. 2025), the Government removed a prevailing habeas petitioner from the
11 United States, after which the petitioner sought expedited discovery concerning the
12 Government's efforts to facilitate his return. Granting the motion, the court held that expedited
13 discovery was warranted because "significant questions regarding noncompliance with a court
14 order have been raised." *Id.* at 591 (*quoting Leavitt*, 523 F.3d at 1033-34). The court further
15 concluded that discovery was necessary because the Government had refused to disclose "what it
16 can" regarding the steps it had taken to facilitate the petitioner's return. *Id.* at 592-93.

19 The Supreme Court likewise has recognized that meaningful judicial relief does not
20 necessarily end when a noncitizen has been removed from the United States. In *Nken v. Holder*,
21 556 U.S. 418, 435 (2009), the Court explained that noncitizens who prevail after removal "can be
22 afforded effective relief by facilitation of their return, along with restoration of the immigration
23 status they had upon removal."

25 More recently, in *Noem v. Abrego Garcia*, 604 U.S. ___, 145 S. Ct. 1017 (2025), the
26 Supreme Court unanimously affirmed an order requiring the Government to facilitate the
27 petitioner's release from custody abroad and "to ensure that his case is handled as it would have
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1 been had he not been improperly sent to El Salvador." *Id.* at 1018. The Court further instructed
2 that the Government "should be prepared to share what it can concerning the steps it has taken
3 and the prospect of further steps." *Id.*

4 Building on *Abrego Garcia*, the District of Utah recognized that a district court's equitable
5 authority extends beyond merely ordering a petitioner's physical return. In *Vasquez v. Noem*, No.
6 2:25-cv-01146-JNP, 2026 U.S. Dist. LEXIS 46315, at *13-14 (D. Utah Mar. 5, 2026), the court
7 held that its equitable powers permitted it to restore both the parties and the litigation to the
8 position they occupied before the Government's violation of the court's order, explaining that
9 "the court's equitable powers to restore the status quo do not extend just to ordering the
10 government to facilitate Mr. Reyes Vasquez's return. Rather, it reverted the case and the legal
11 positions of the parties to what they were prior to the violation of the court's order."

12 Collectively, these authorities establish that this Court retains jurisdiction to enforce its
13 habeas judgment, possesses broad equitable authority to restore the status quo, and may
14 authorize expedited discovery where, as here, Respondents alone possess the information
15 necessary to determine whether they have complied with the Court's Order.

16 **IV. ARGUMENT**

17 **a. This Court Retains Jurisdiction to Enforce Its Habeas Judgment and to 18 Determine Whether Respondents Have Complied with Its Order.**

19 This motion does not seek to relitigate the merits of Petitioner's habeas petition. Nor does
20 it presently request an order compelling Respondents to facilitate Petitioner's return to the United
21 States. Instead, Petitioner seeks the information necessary for this Court to determine whether
22 Respondents have complied with its existing judgment and whether additional equitable relief is
23 required to give that judgment meaningful effect.

1 The Supreme Court has made clear that a noncitizen's removal does not necessarily
2 deprive a federal court of the ability to provide effective relief. In *Nken v. Holder*, 556 U.S. 418,
3 435 (2009), the Court explained that a noncitizen who prevails after removal "can be afforded
4 effective relief by facilitation of their return, along with restoration of the immigration status
5 they had upon removal." More recently, in *Noem v. Abrego Garcia*, 604 U.S. ___, 145 S. Ct.
6 1017, 1018 (2025), the Supreme Court unanimously affirmed an order requiring the Government
7 to facilitate a wrongfully removed petitioner's return "to ensure that his case is handled as it
8 would have been had he not been improperly sent to El Salvador." In doing so, the Court further
9 instructed that the Government "should be prepared to share what it can concerning the steps it
10 has taken and the prospect of further steps." *Id.*

13 That directive is central to the present motion. Before this Court can determine whether
14 Respondents have fulfilled their obligations under its habeas judgment—or whether further
15 equitable relief is warranted—it must first know what Respondents have done since learning of
16 the Court's Order. The current record does not answer that question.

18 Indeed, the information sought by Petitioner is precisely the type of information the
19 Supreme Court contemplated when it directed the Government to disclose the steps it had taken
20 and the prospect of further action. Petitioner seeks nothing more than disclosure of those efforts
21 so that this Court may determine whether its judgment has been honored or frustrated.

23 Accordingly, this motion falls squarely within this Court's continuing authority to
24 supervise compliance with its own orders and to determine whether additional relief is necessary
25 to effectuate its judgment.

26 **b. Respondents' Own Declarations Demonstrate That the Existing Record Is**
27 **Incomplete.**

1 Respondents contend that they have complied with this Court's request for additional
2 information by submitting declarations from Supervisory Detention and Deportation Officer
3 Christopher Hudson and Assistant United States Attorney Martin Mayer. Those declarations
4 answer certain historical questions. They do not answer the question presently before the Court.
5

6 Mr. Hudson confirms that Petitioner's Deferred Action "was not revoked, suspended, or
7 otherwise ineffective." He further explains that removal planning began before the Court issued
8 its written Order and that Petitioner had already landed in Guatemala when the Court entered its
9 decision.
10

11 Likewise, Mr. Mayer explains that he forwarded the Court's Order to DHS personnel
12 within minutes after receiving it.

13 Neither declaration, however, addresses Respondents' conduct after that point.

14 Neither declarant identifies whether DHS officials reviewed the Court's Order upon
15 receipt. Neither states whether anyone evaluated facilitating Petitioner's return, contacted
16 Customs and Border Protection, consulted with United States Citizenship and Immigration
17 Services, communicated with the Department of State, considered humanitarian parole or any
18 other lawful mechanism for Petitioner's return, initiated diplomatic communications, or
19 otherwise attempted to restore Petitioner to the position he would have occupied had this Court's
20 Order been effectuated.
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22 Equally absent is any explanation identifying the officials who made those decisions, the
23 legal authority relied upon, or whether Respondents concluded that no action whatsoever would
24 be undertaken.
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26 These omissions are significant because they concern the precise conduct now at issue.
27 The declarations establish what occurred before Respondents learned of this Court's Order. They
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1 remain silent as to everything that occurred afterward.

2 Far from eliminating the need for discovery, Respondents' declarations demonstrate why
3 expedited discovery is necessary. They confirm that Respondents possess the relevant
4 information while simultaneously illustrating that the present record is devoid of any evidence
5 regarding Respondents' post-Order compliance efforts.
6

7 **c. Expedited Discovery Is Warranted Because Significant Questions Exist**
8 **Regarding Respondents' Compliance with This Court's Judgment.**

9 Federal courts routinely authorize expedited discovery where questions exist regarding
10 compliance with a judicial order. The Ninth Circuit has recognized that expedited discovery is
11 appropriate "[w]here significant questions regarding noncompliance with a court order have been
12 raised." *Cal. Dep't of Soc. Servs. v. Leavitt*, 523 F.3d 1025, 1033-34 (9th Cir. 2008).
13

14 Recently, in *Garcia v. Noem*, 348 F.R.D. 589 (D. Md. 2025), the district court confronted
15 a situation remarkably similar to the present case. After the Government improperly removed a
16 prevailing habeas petitioner from the United States, the petitioner sought expedited discovery
17 concerning the Government's efforts to facilitate his return. Granting that request, the court
18 emphasized that expedited discovery was necessary because the Government had failed to
19 disclose "what it can" regarding the steps it had taken to facilitate return and because those facts
20 remained exclusively within the Government's possession. *Id.* at 591-93.
21

22 The court further observed that the Supreme Court had already directed the Government
23 to be prepared to disclose the steps it had taken and the prospect of future efforts. *Id.* In light of
24 that directive, the district court concluded that discovery was necessary to determine "what, if
25 anything," the Government had done to comply with the court's prior orders. *Id.*
26

27 The same reasoning applies here.
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2 Respondents alone possess information concerning: who reviewed this Court's Order after it was
3 transmitted by Government counsel; whether any official considered facilitating Petitioner's
4 return; whether any communications occurred among ICE, DHS, CBP, USCIS, the Department
5 of State, or other governmental entities; whether Respondents concluded they possessed
6 authority to facilitate Petitioner's return; whether any efforts have been undertaken since April 7,
7 2026; whether any efforts remain ongoing; and if no efforts have been undertaken, why
8 Respondents determined that no action would be taken.
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11 Without discovery directed to these issues, Petitioner cannot meaningfully respond to
12 Respondents' position, and this Court cannot determine whether Respondents have complied
13 with its judgment or whether additional equitable relief is warranted.

14 The requested discovery is therefore not collateral to the underlying habeas proceeding.
15 Rather, it is indispensable to the Court's ability to determine whether its judgment has been
16 effectuated.
17

18 **d. The Requested Discovery Is Narrowly Tailored, Proportional, and Necessary**
19 **to Permit the Court to Determine Whether Further Equitable Relief Is**
20 **Warranted.**

21 Petitioner does not seek broad merits discovery or inquiry into immigration enforcement
22 generally. Instead, the requested discovery is limited to Respondents' conduct following this
23 Court's April 7, 2026 Order and is directed solely toward determining whether Respondents have
24 complied with that Order.

25 Specifically, Petitioner requests production of documents and communications reflecting
26 actions taken after Respondents learned of this Court's Order, including communications
27 concerning Petitioner's Deferred Action, potential facilitation of return, communications with
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1 other federal agencies, internal directives, and any records reflecting efforts undertaken—or
2 decisions made not to undertake efforts—to restore Petitioner to the position he would have
3 occupied had the Court's Order been timely effectuated.

4 Petitioner further requests limited declarations from the officials with personal
5 knowledge of those efforts identifying the actions taken, the officials involved, the legal
6 authority relied upon, and any remaining barriers to Petitioner's return.

7 This discovery is narrowly tailored to a discrete period of time, concerns only
8 Respondents' post-Order conduct, and imposes minimal burden upon Respondents because the
9 requested information is already within their possession and control.

10 Moreover, Respondents have already demonstrated that responsive information exists by
11 submitting declarations concerning Petitioner's removal and Deferred Action. The requested
12 discovery merely seeks completion of that factual record by requiring Respondents to disclose
13 what occurred after they learned of this Court's Order.

14 Absent that information, this Court cannot meaningfully determine whether Respondents
15 have complied with its judgment, whether they have taken the steps contemplated by *Noem v.*
16 *Abrego Garcia*, or whether additional equitable relief—including an order directing facilitation
17 of Petitioner's return—is necessary to restore the *status quo ante*.

18 For these reasons, good cause exists under Rule 26 for expedited discovery, and the
19 requested relief should be granted.

20 **V. CONCLUSION**

21 For the foregoing reasons, Petitioner respectfully requests that the Court grant this Motion
22 and order narrowly tailored expedited discovery concerning Respondents' actions, or failure to
23 act, following this Court's April 7, 2026 Order. The requested discovery is necessary to enable

1 the Court to determine whether Respondents have complied with its habeas judgment, whether
2 they have taken the steps contemplated by *Noem v. Abrego Garcia*, 604 U.S. ___, 145 S. Ct.
3 1017 (2025), and whether additional equitable relief is required to restore Petitioner to the
4 position he would have occupied had this Court's Order been timely effectuated.
5

6 Accordingly, Petitioner respectfully requests that the Court:

- 7 1. Grant Petitioner's Motion for Additional Equitable Relief and Expedited Discovery;
- 8 2. Order Respondents to produce the limited discovery requested within a time period
9 established by the Court;
- 10 3. Require Respondents to submit sworn declarations from officials with personal
11 knowledge describing all actions taken after April 7, 2026, to comply with this Court's
12 Order and to evaluate or facilitate Petitioner's return to the United States; and
13 4. Grant such other and further relief as the Court deems just, proper, and necessary to
14 enforce its judgment and preserve Petitioner's ability to obtain meaningful relief.
15

16 Respectfully submitted this 26th day of June 2026.
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