CRAIG H. MISSAKIAN (CABN 125202)
United States Attorney
PAMELA T. JOHANN (CABN 145558)
Chief, Civil Division
WILLIAM SKEWES-COX (DCBN 1780431)
Special Assistant United States Attorneys

450 Golden Gate Avenue, Box 36055
San Francisco, California 94102-3495
Telephone: (415) 436-7073
FAX: (415) 436-7000
William.skewes-cox@usdoj.gov

Attorneys for Respondents

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

SANTA JERONIMO DE RAMOS, et al.,

Petitioners,

v.

SERGIO ALBARRAN, et al.,

Respondents.

CASE NO. 3:26-cv-04535-TLT

RESPONDENTS' MOTION TO DISSOLVE THE TEMPORARY RESTRAINING ORDER

POINTS AND AUTHORITIES IN SUPPORT OF MOTION TO DISSOLVE THE TEMPORARY RESTRAINING ORDER

NOTICE OF MOTION

On May 14, 2026, the Court issued the "Order Granting Petitoner- Plaintiffs' Ex-Parte Motion For Temporary Restraining Order And Briefing Schedule." *See* Dkt. No. 5. Accordingly, pursuant to Federal Rule of Civil Procedure 65(b)(4), Respondents Sergio Albarran, Todd Lyons, Markwayne Mullin, and Todd Blanche ("Respondents") move to dissolve the TRO that was granted ex parte. Under the same rule, Respondents request that a hearing be held as soon as practicable but no more than two days from today.

The reasons in support of this Motion are set forth in the accompanying Memorandum of Points and Authorities. This Motion is supported by the concurrently filed Declaration of Deportation Officer Pedro Carrasco with accompanying Exhibits. As set forth in the Points and Authorities in support of this Motion, Petitioner is not likely to succeed on the merits because this Court lacks jurisdiction over Petitioners' claim. Petitioner has a judicially and administratively final order of removal.

WHEREFORE, Respondents pray that this Court grant their request to dissolve the temporary restraining order.

Dated: May 14, 2026

Respectfully submitted,

CRAIG H. MISSAKIAN
United States Attorney

/s/ William Skewes-Cox
WILLIAM SKEWES-COX
Special Assistant United States Attorney

Attorneys for Respondents

I. INTRODUCTION

Petitioner's filings fail to mention the material fact that the Ninth Circuit denied her motion for stay of removal. Accordingly, Petitioner is subject to a judicially and administratively final order of removal. This deprives this Court of jurisdiction to hear her claim. Respondents are empowered to remove Petitioner from the United States. Respondents thus request that the Court dissolve the TRO and dismiss Petitioner's habeas petition.

II. FACTUAL AND PROCEDURAL BACKGROUND

A. Factual Background

Petitioners are natives and citizens of Guatemala who illegally entered the United States on June 25, 2023, and were placed into removal proceedings. Declaration of Deportation Officer Pedro Carrasco ("Carrasco Decl.") ¶ 5. On July 5, 2024, an immigration judge ("IJ") denied all of Petitioners' applications for relief from removal and ordered them removed to Guatemala. *Id.* ¶ 6, Ex. 1. Petitioners appealed this decision to the Board of Immigration Appeals ("BIA"). *Id.* On December 23, 2024, the BIA dismissed Petitioners' appeals. *Id.* ¶ 7, Ex. 1. Petitioners filed a petition for review ("PFR") of the BIA decision, as well as a motion to stay removal, to the U.S. Court of Appeals for the Ninth Circuit. *Id.* ¶ 7. ICE did not place Petitioner on an Order of Supervision ("OSUP") as she was not subject to detention under section 241 of the Immigration and Nationality Act ("INA") [8 U.S.C. § 1231] at this time due to the pending stay motion. *Id.* On October 31, 2025, the U.S. Court of Appeals for the Ninth Circuit denied Petitioners' motion to stay removal. *Id.* ¶ 8, Ex. 2. The PFR remains pending. *Id.* ¶ 8; *see also Jeronimo De Ramos, et al. v. Blanche*, No. 25-436 (9th Cir. filed Jan. 22, 2025).

On February 2, 2026, Petitioner Jeronimo De Ramos reported to the ERO San Francisco field office for the first time after the stay of removal was lifted. ERO gave Petitioner Jeronimo De Ramos a next report date of May 4, 2026. Carrasco Decl. ¶ 9. On May 4, 2026, Petitioner Jeronimo De Ramos reported to the ERO San Francisco field office per her scheduled appointment. *Id.* ¶ 10. ERO conducted a removal interview to determine if she planned to self-deport and informed her of the option to self-deport via the CBP Home mobile application. *Id.* ERO instructed Petitioner Jeronimo De Ramos to bring her daughter and her daughter's passport on her next visit, the date of which was to be determined.

Id. On or about May 11, 2026, ICE's Intensive Supervision Appearance Program ("ISAP") reached out to Petitioner Jeronimo De Ramos and instructed her and her daughter to report to the ERO San Francisco field office on May 15 at 8:00 AM. *Id.* ¶ 11. Petitioner Jeronimo De Ramos confirmed they would appear and that she would bring her daughter's passport. *Id.*

ICE has scheduled Petitioners' removal for Friday, May 15, 2026. *Id.* ¶ 12. To effectuate a removal of a family unit such as Petitioners, ERO generally will turn over Petitioners to the ICE Juvenile & Family Management Transportation & Compliance Unit ("JFMTCU") for transport for a repatriation flight, which could include a flight from a local airport to a different airport, where the repatriation flight will depart. *Id.* Due to timing, if the repatriation flight is scheduled for the day after Petitioners are turned over to ICE JFMTCU, ICE JFMTCU will check Petitioners into a local hotel pending their removal flight the next morning. *Id.*

On May 14, 2026, Petitioners filed a petition for writ of habeas corpus and an *ex parte* motion for TRO. Dkt. Nos. 1, 1-3.

III. LEGAL STANDARD

A. Temporary Restraining Order Standard

The standard for issuing a temporary restraining order is "substantially identical" to the standard for issuing a preliminary injunction. *Stuhlbarg Int'l Sales Co. v. John D. Brush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001). A preliminary injunction is "an extraordinary and drastic remedy, one that should not be granted unless the movant, by a clear showing, carries the burden of persuasion." *Lopez v. Brewer*, 680 F.3d 1068, 1072 (9th Cir. 2012). To obtain relief, the moving party must show that "he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the public interest." *Winter v. NRDC*, 555 U.S. 7, 20 (2008).

The purpose of a preliminary injunction is to preserve the status quo pending final judgment rather than to obtain a preliminary adjudication on the merits. *Sierra On-Line, Inc. v. Phoenix Software, Inc.*, 739 F.2d 1415, 1422 (9th Cir. 1984). "A preliminary injunction can take two forms." *Marlyn Nutraceuticals, Inc. v. Mucos Pharma GmbH & Co.*, 571 F.3d 873, 878 (9th Cir. 2009). "A prohibitory

injunction prohibits a party from taking action and 'preserves the status quo pending a determination of the action on the merits.'" *Id.* (internal quotation omitted). "A mandatory injunction orders a responsible party to take action." *Id.* at 879 (internal quotation omitted). "A mandatory injunction goes well beyond simply maintaining the status quo pendente lite and is particularly disfavored." *Id.* "In general, mandatory injunctions are not granted unless extreme or very serious damage will result and are not issued in doubtful cases." *Id.* Where plaintiffs seek a mandatory injunction, "courts should be extremely cautious." *Stanley v. Univ. of S. Cal.*, 13 F.3d 1313, 1319 (9th Cir. 1994) (internal quotation omitted). The moving party "must establish that the law and facts *clearly favor* [their] position, not simply that [they are] likely to succeed." *Garcia v. Google, Inc.*, 786 F.3d 733, 740 (9th Cir. 2015) (emphasis original).

IV. ARGUMENT

A. Petitioner Is Unlikely To Succeed On The Merits Of Her Claim

1. Petitioner Cannot Overcome The Jurisdictional Bar To Her Claims Found In 8 U.S.C. § 1252(g)

The jurisdiction stripping provision found in § 1252(g) is dispositive and fatal to Petitioner's case. Under section 1252(g), "no court shall have jurisdiction to hear any cause or claim by or on behalf of any alien arising from the decision or action by the Attorney General to…execute removal orders against any alien under this chapter." 8 U.S.C. § 1252(g); *see also Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 487 (1999) (holding that § 1252(g) precluded judicial review of petitioners' suit challenging Attorney General's decision to commence proceedings). Here, ICE is empowered to detain Petitioner to execute an order of removal because Petitioner is subject to an administratively and judicially final order of removal. Due to the finality of the removal order, this is not a case where § 1252(g) does not apply because Respondents "lacked the authority, and therefore the discretion, to remove" Petitioner. *Arce v. United States*, 899 F.3d 796, 800 (9th Cir. 2018). There is no stay of Petitioner's removal order. *Id.* Accordingly, § 1252(g) squarely covers Petitioner's claim.

(i) Ninth Circuit Precedent Endorses Respondents' Reading Of § 1252(g)

"No matter how [Petitioner] frames it, [her] challenge is to the Attorney General's exercise of his discretion to execute [her] removal order, which we have no jurisdiction to review." *Rauda v. Jennings*, 55 F.4th 773, 778 (9th Cir. 2022). Section 1252(g) is plainly applicable to the facts of this case. In

Rauda, as with the instant case, an alien with an administratively and judicially final order of removal sought to block his removal while he pursued other relief. *See id.* at 776. The Ninth Circuit held that, pursuant to § 1252(g), it lacked jurisdiction to review Petitioner's claims: "The execution of his removal order is precisely what [Petitioner] challenges here…Congress has explicitly precluded our review of this claim." *Id.* at 777.

Petitioner cannot escape the reach of § 1252(g) by alleging that her claims do not arise from the decision to execute her removal order, but instead only challenge her detention. In this case, the two categories are not so distinct. A brief detention necessary to execute a removal order is "implicit in the concept of 'removal' itself." *Diallo v. Joyce*, 817 F. Supp. 3d 202, 208 (S.D.N.Y. 2025). The government would be left powerless to execute a removal order – and § 1252(g) would become meaningless dead letter – if it cannot briefly detain an alien immediately prior to physically removing her from the United States. "Otherwise, § 1252(g) would be a paper tiger." *E.F.L. v. Prim*, 986 F.3d 959, 965 (7th Cir. 2021). This Court should "not render § 1252(g) so toothless." *Id.*

The applicability of *Zadvydas v. Davis* does not turn on whether there is a detention; rather, what matters is the purpose and length of the detention. *See* Dkt. No. 1-3 at 9-10. The kind of detention that motivated the Supreme Court's decision in *Zadvydas* was prolonged detention absent a significant likelihood of removal in the reasonably foreseeable future. 533 U.S. 678, 701 (2001). Here, no such worry is at play. Petitioner has a judicially final removal order to a country that regularly accepts deportees. Her removal is thus eminently foreseeable, absent orders from this Court. Because Petitioner's removal is imminent, *Zadvydas* is inapposite. *Diallo*, 817 F. Supp. 3d at 208 ("nothing in the Court's holding says that the government may not remove Diallo or that, if removal were *imminent*, the government could not briefly detain Diallo for purposes of effecting that removal.") (emphasis in original).

(ii) Numerous District Courts In The Ninth Circuit Also Agree With Respondents' Reading Of § 1252(g)

Local district courts regularly rely on *Rauda* and § 1252(g) in dismissing aliens' challenges to the execution of judicially final orders of removal. *See, e.g.*, *Saelee v. Hernandez*, No. 2:26-CV-00735-

TL, 2026 WL 1045223, at *3 (W.D. Wash. Apr. 17, 2026) (relying on *Rauda* and 1252(g) to reject petitioner's request for "procedural protections against inappropriate and unlawful detention."); *Toma-Sambrano De Sandoval v. Semaia*, No. 5:26-CV-01644-MEMF-AS, 2026 WL 1073275, at *4 (C.D. Cal. Apr. 17, 2026) ("In sum, because Section 1252(g) applies to Petitioner's claims, this Court does not have jurisdiction to grant Petitioner's request to delay removal."); *Makuey v. Scott*, No. 2:26-CV-00632-DGE, 2026 WL 925647, at *5 (W.D. Wash. Apr. 6, 2026) (relying on *Rauda* in holding court lacked jurisdiction consider petitioner's challenge to decision to execute removal order); *Kanyike v. U.S. Dep't of Homeland Sec.*, No. 2:26-CV-02677-ODW (SSCX), 2026 WL 790554, at *1 (C.D. Cal. Mar. 16, 2026) ("[section] 1252(g) prohibits this Court from reviewing Kanyike's request to enjoin the execution of his final removal order pending adjudication of the merits of his case."); *Vo v. Bd. of Immigr. Appeals*, No. 26-CV-01801-BLF, 2026 WL 637033, at *3 (N.D. Cal. Mar. 6, 2026) ("The Ninth Circuit has held unequivocally that § 1252(g) strips federal courts of jurisdiction to enjoin a noncitizen's removal pending the BIA's adjudication of the noncitizen's motion to reopen."); *Saechao v. Scott*, No. 2:26-CV-00548-TMC, 2026 WL 626765, at *5 (W.D. Wash. Mar. 5, 2026) ("There is no meaningful distinction between Rauda and Petitioner's request that execution of his removal order be stayed so that he can file a motion to reopen."); *Hanna v. Santacruz*, No. 5:26-CV-00267-ODW (KSX), 2026 WL 242029, at *2 (C.D. Cal. Jan. 29, 2026) ("As framed, Petitioner's requested relief falls within § 1252(g)'s jurisdictional bar because Petitioner asks the Court to restrain the government from executing a removal order."); *Ramirez Ayala v. Santacruz*, No. 2:25-CV-11496-ODW (PVCX), 2025 WL 3485738, at *3 (C.D. Cal. Dec. 4, 2025) ("In sum, § 1252(g) applies to Petitioner's request to enjoin the execution of his final removal order pending adjudication of the merits his case."); *Aguilar Garcia v. Kaiser*, No. 3:25-CV-05070-JSC, Dkt. No. 33 (N.D. Cal. Oct. 30, 2025) (citing to *Rauda v. Jennings,* 55 F.4th at 778, in denying petitioner's emergency motion for reconsideration); *Hernandez-Morales v. Bondi*, No. 25-CV-2551-BJC-MMP, 2025 WL 2932650, at *3 (S.D. Cal. Oct. 15, 2025) ("In sum, Petitioner fails to distinguish his challenge from the substantially similar challenge deemed barred in *Rauda*, and he fails to demonstrate that his petition and TRO motion do not challenge the discretionary authority to execute the removal orders."); *Poghosyan v. U.S. Dep't of Homeland Sec.,* No. 2:25-CV-03091-SB-ADS, 2025

WL 1287771, at *4 (C.D. Cal. May 1, 2025), *appeal dismissed sub nom. Poghosyan v. United States Dep't of Homeland Sec.*, No. 25-2835, 2025 WL 3079095 (9th Cir. Aug. 19, 2025) (relying on *Rauda, Tazu,* and *Camarena* to reject petitioner's challenge to the execution of his removal order); *see also Patel v. Garland,* No. 21-17024, 2024 WL 722575, at *2 (9th Cir. Feb. 22, 2024) ("The Patels seek to postpone removal .... Because the Patels challenge 'whether' and 'when,' Rauda, 55 F.4th at 777 (emphasis omitted), a valid order of removal is executed, § 1252(g) bars our jurisdiction.").

Respondents thus respectfully request that this Court follow Ninth Circuit precedent and numerous local district courts in holding that § 1252(g) bars Petitioner's claim.

2. Other Provisions In 8 U.S.C. § 1252 Also Divest This Court Of Jurisdiction

This Court lacks jurisdiction to consider claims going to the merits of the removal order. Under 8 U.S.C. § 1252(b)(9), federal district courts are barred from reviewing any suit "arising from an[] action taken or proceeding brought to remove an alien," 8 U.S.C. §1252(b)(9). Instead, any challenges to the validity of a removal order are channeled through a petition for review of a removal order with courts of appeals as the "sole and exclusive" forum for such a claim. 8 U.S.C § 1252(a)(5). Thus, to the extent Petitioner's claims are reviewable, it must be in a petition for review. 8 U.S.C. §§ 1252(a)(4), (a)(5), (b)(9).

The Ninth Circuit has looked to these provisions and reached the same conclusion "The exclusive means to challenge an order of removal is the petition for review process." *Martinez v. Napolitano*, 704 F.3d 620, 622 (9th Cir. 2012); *see also Khalil v. President, United States,* 164 F.4th 259, 265 (3d Cir. 2026). "Taken together, § 1252(a)(5) and § 1252(b)(9) mean that *any* issue—whether legal or factual—arising from *any* removal-related activity can be reviewed only through the [petition-for-review] process." *J.E.F.M. v. Lynch*, 837 F.3d 1026, 1031 (9th Cir. 2016) (emphasis in original); *see also Viloria v. Lynch*, 808 F.3d 764, 767 (9th Cir. 2015) ("It is well established that this court's jurisdiction over removal proceedings is limited to review of final orders of removal."). Petitioners filed a petition for review before the Ninth Circuit, but that petition is pending. Petitioners also filed a motion to stay removal with Ninth Circuit but that motion for stay was *denied*. Habeas is not an additional vehicle to enjoin removal.

3. Petitioner's Pending Petition For Review Does Not Prohibit Her Removal

Under 8 U.S.C. § 1252(b)(3)(B), "Service of the petition [for review] does not stay the removal of an alien pending the court's decision on the petition, unless the court orders otherwise." The Ninth Circuit has already denied Petitioners' motion for a stay of removal. Carrasco Decl. ¶ 8, Ex. 2. As such, there is currently no impediment to ICE effectuating the removal order despite the pending PFR. *See* Ninth Circuit Gen. Ord. 6.4(c) (9th Cir. Mar. 25, 2026) ("Upon the filing of an initial motion or request for stay of removal or deportation, the order of removal or deportation is temporarily stayed until further order of the Court."); *see also Prieto-Romero v. Clark,* 534 F.3d 1053, 1060 n.5 (9th Cir. 2008) ("if an alien files a timely petition for review and requests a stay, the removal period does not begin until the court of appeals (1) denies the motion for a stay or (2) grants the motion and finally denies the petition for review"). Petitioner is not without remedy if eventually the Ninth Circuit grants her petition for review. ICE has already anticipated a situation where an alien has been removed while their PFR is pending. *See* U.S. Immigr. & Customs Enf't, Directive No. 11061.1: Facilitating the Return to the United States of Certain Lawfully Removed Aliens (Feb. 24, 2012), https://www.ice.gov/doclib/foia/dro_policy_memos/11061.1_current_policy_facilitating_return.pdf. But none of this prevents her removal.

4. The Execution Of A Judicially Final Order Of Removal Does Not Require An Additional Finding Of Flight Risk Or Danger

Petitioner seeks a "pseudo-stay" in the form of an order requiring an additional flight risk or danger finding prior to the execution of Petitioner's removal order. *See* Dkt. No. 1-3 at 25. There is no support for this relief in the immigration laws of the United States. Respondents are undoubtably empowered to execute removal orders, and a brief detention is inherent in the actions of deportation and removal. There are no constitutional issues arising from the detention of aliens ordered removed for "a period reasonably necessary to bring about that alien's removal from the United States." *Zadvydas v. Davis*, 533 U.S. 678, 689 (2001). Petitioner's removal is imminently foreseeable.

5. The *Mathews v. Eldridge* Factors Favor The Respondents

Respondents assume without conceding that the three-part test established in *Mathews v.*

Eldridge, 424 U.S. 319 (1976), applies to the instant case. *See Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1206-07 (9th Cir. 2022). The *Mathews* test balances three factors: (1) "the private interest that will be affected by the official action"; (2) "the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards"; and (3) "the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." *Mathews*, 424 U.S. at 335.

Petitioner lacks a liberty interest because she illegally entered the United States without admission and has never had legal immigration status. Moreover, she has been ordered removed from the United States by an Immigration Judge and the Board of Immigration Appeals. The order of removal is judicially final.

There is no risk of erroneous deprivation. There is no question that Petitioner's order of removal is judicially final. Petitioner's removal is imminent, absent an order from this Court. Petitioner at most faces a short time in government custody before she is lawfully removed pursuant to the judicially final removal order. A brief detention is inherent in the government's statutory and sovereign authority to execute final orders of removal. Any time the government is enjoined by a court from effectuating statutes enacted by Congress, it suffers a form of irreparable harm. *See Maryland v. King*, 567 U.S. 1301, 1303 (2012) (Roberts, C.J., in chambers). Petitioner, however, suffers no erroneous deprivation from the execution of the legally firm removal order against her. There is no constitutional injury from lawful removal. Additional safeguards are not necessary to prove what is already apparent: Petitioner is subject to a judicially final order of removal.

The government has a weighty interest in the prompt execution of removal orders. As the Supreme Court has emphasized, "[t]here is always a public interest in prompt execution of removal orders." *Nken*, 556 U.S. 418, 436 (2009). However, the burden and delay to the government of holding a pre-deprivation hearing is significant. At the San Francisco Immigration Court, there are delays of several months in scheduling and holding a pre-deprivation hearing, and that does not include the additional time waiting a final decision from the immigration court. *See Guillermo M.R. v. Kaiser*, 3:25-cv-5436-RFL, Dkt. No. 39 (N.D. Cal. Jun. 29, 2025) ("[O]n August 12, 2025, the Immigration Court

granted the motion of Respondent Department of Homeland…to schedule a pre-deprivation bond hearing for Petitioner. The hearing was scheduled for January 20, 2026."). The removal of aliens lawfully ordered removed is a core sovereign function. The relief Petitioner seeks unjustifiability thwarts the prompt execution of the removal order against him.

B. The Remaining Winters Factors Support Denying A Preliminary Injunction

Respondents face irreparable harm from Petitioner's requested relief. Any time the government is enjoined by a court from effectuating statutes enacted by Congress, it suffers a form of irreparable harm. *See Maryland v. King*, 567 U.S. 1301, 1303 (2012) (Roberts, C.J., in chambers). Petitioner, however, suffers no cognizable harm from the execution of the legally firm removal order against her. There is no constitutional injury from lawful removal. Petitioner at most faces a brief detention in government custody before she is lawfully removed pursuant to the final removal order.

As for the balance of equities and the public interest factors of the TRO inquiry, which merge when the government is the opposing party, Respondents have a weighty interest in removing Petitioner. As the Supreme Court has emphasized, "[t]here is always a public interest in prompt execution of removal orders." *Nken*, 556 U.S. at 436. The relief Petitioner seeks unjustifiability thwarts the prompt execution of the removal order against her. Respondents will face significant delays in detaining Petitioner if they must demonstrate that any detention incident to removal is necessary to prevent flight or danger to the community prior to executing the removal order. This delay will likely last months at least. *See Guillermo M.R. v. Kaiser*, 3:25-cv-5436-RFL, Dkt. No. 39 (N.D. Cal. Jun. 29, 2025). Thus, these factors strongly weigh in favor of Respondents.

V. CONCLUSION

For the foregoing reasons, the government respectfully requests that the Court dissolve the TRO and dismiss Petitioners' habeas petition.

Dated: May 14, 2026

Respectfully submitted,

CRAIG H. MISSAKIAN
United States Attorney

/s/ William Skewes-Cox
WILLIAM SKEWES-COX
Special Assistant United States Attorneys

Attorneys for Respondents